THE BRAILLE MONITOR

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VOICE OF THE NATIONAL FEDERATION OF THE BLIND

The National Federation of the Blind is not an organization speaking for the blind--it is the blind speaking for themselves

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THE BRAILLE MONITOR

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PARRISH DECISION: A WELFARE MILESTONE

First there was Kirchner; now there is Parrish.

These two names symbolize two successive landmarks in the constitutionalizing of welfare--both at the hands of the Supreme Court of California. The Kirchner case, decided three years ago, established the right of relatives of certain institutionalized recipients of public aid to be free from special and discriminatory taxation involved in the hoary doctrine of relatives' responsibility.

Now the Parrish case, decided by the State Supreme Court on March 27 of this year (Parrish v. Civil Service Commission of the County of Alameda), proclaims that welfare recipients do not by that token relinquish their constitutional rights--including the Fourth Amendment rights of protection against unwarranted intrusions into the home and the related right of privacy.

The six-to-one decision of California's highest court climaxes a five-year battle by Benny Parrish, a partially blind caseworker in Alameda County, to gain reinstatement after being fired for "insubordination" because of his refusal to participate in a mass dawn raid upon the homes of county welfare recipients. Throughout the long succession of appeals by Parrish, whose claim that such participation would have made him an accessory in the violation of constitutional rights was consistently rejected by the lower courts, the National Federation of the Blind lent active assistance and support.

That cause--not the cause of Benny Parrish alone but the cause of all recipients of public welfare services--has now been vindicated.

In deciding for Parrish--who must now be reinstated in his position with back pay--the California Supreme Court met head-on the constitutional question raised by the case. "Accordingly we must determine, as the central issue in the present case, the constitutionality of the searches contemplated and undertaken in the course of the operation," said Justice J. Tobriner for the court.

"By their timing and scope those searches pose constitutional questions relating both to the Fourth Amendment's stricture against unreasonable searches and to the penumbral right of privacy and repose recently vindicated by the United States Supreme Court in Griswold v. Connecticut (1965)... ."

On the basis of the evidence presented in the Parrish case, together with numerous citations of other cases involving similar constitutional issues, the court concluded that the welfare raids upon the homes of recipients were unconstitutional and that the means of gaining access was coercive. Indeed the court was especially forceful in striking down the claim of the county welfare department that the raided recipients had voluntarily consented to a search of their homes.

"Our case proceeds far beyond a mere request for admission presented by authorities under color of office. Thus we need not determine here whether a request for entry, voiced by one in a position of authority under circumstances which suggest that some official reprisal might attend a refusal, is itself sufficient to vitiate an affirmative response by an individual who has not been apprised of his Fourth Amendment rights.

"The persons subjected to the instant operation confronted far more than the amorphous threat of official displeasure which necessarily attends any such request. The request for entry by persons whom the beneficiaries knew to possess virtually unlimited power over their very livelihood posed a threat which was far more certain, immediate, and substantial."

The burden of the State Supreme Court's decision was that the peculiar method of investigation employed by the county--an unannounced early-morning raid upon some 422 homes randomly selected from a list of ANC recipients--went far beyond the declared purpose of ferreting out fraud. "Such efforts," said the court in conclusion, "must be, and clearly can be, conducted with due regard for the constitutional rights of welfare recipients. The county welfare department itself has now abandoned the technique of investigation which it pursued here; we may thus rest assured that it will develop other more carefully conceived procedures. It is surely not beyond the competence of the department to conduct appropriate investigations without violence to human dignity and within the confines of the Constitution."

The impact of this landmark judgment by the state court is certain to be felt across the land, wherever clients of welfare services are threatened with loss of rights by an authority, in the form of social worker or agency official, whose historic tendency and temptation is to overreach itself. In the never-ending struggle between personal liberty and civil rights on the one hand and official authority on the other, it is more and more the courts of the land which have moved to redress the balance in favor of the individual.

Among those courts none has been more conspicuous or more consistent over recent years in bringing the Constitution to the poor and disadvantaged than the Supreme Court of California. Thus Justice Tobriner himself notes that "with increasing frequency the courts have denied the efficacy of any consent to a search obtained by covert threats of official sanction or by implied assertions of superior authority"; and, more pertinently still: "Both this court and the Supreme Court of the United States have recently emphasized the heavy burden which the government bears when it seeks to rely upon a supposed waiver of constitutional rights."

In passing it may be observed that, in support of its reasoning on the issue of searches and consent, the California court cited a monograph by NFB President Jacobus tenBroek, California's Dual System of Family Law: Its Origin, Development and Present Status, as published in the Stanford Law Review.

In light of the present momentous decision by a state supreme court, it is unlikely that mass welfare raids of the Alameda County type will again be undertaken--or, if they are, that they will pass uncriticized and uncondemned by the courts. Furthermore, it is at least less likely that welfare recipients under any program will be subjected to kindred harassments, domestic intrusions, invasions of privacy and other intimidations.

Thanks to Benny Parrish and the Supreme Court of California, we may all rest a little more secure in the democratic faith that the law of welfare has not become synonymous with the law of crimes.

NEW MEXICO FEDERATIONISTS SCORE LEGISLATIVE VICTORY

By G. R. Bobeen

New Mexico Federationists emerge victorious from the most ambitious legislative undertaking ever attempted in the history of the New Mexico affiliate.

Early last September Las Luminarias chapter marked the beginning of the 1967 legislative effort by securing positive commitments from numerous candidates for state office at public hearings conducted by the chapter and covered extensively by the news media, including Albuquerque's

three television stations. Following this successful beginning efforts continued as chapter members attended to the multitude of small but ever so important details. Federationists through the state, together with state senators and representatives, received discussion drafts of bills in addition to other vital information concerning the goals, purposes and philosophy of the Federation well in advance of the convening of the Twenty-Eighth Legislature. Indeed the Federation's legislative program was at last off the ground and moving ahead.

As the November elections passed into history, Federationists re-grouped and prepared a second assault designed to persuade and convince the new state administration of the merit and necessity of passage of the measures sponsored by the Federation. Thus, the foundation had been laid in preparation for the final thrust.

New Mexico's new $8,000,000 capitol building provided the stage upon which the final appeal was to be made. Bills in their final form, formally printed and officially sponsored, were at last dropped into the hopper, destined to become intermeshed in that glorious confusion and turmoil which inevitably accompanies that greatest expression of a free and democratic society--"the legislative process." During following weeks these great chambers heard the orations and noble pleas of dedicated Federationists appearing on behalf of the visually handicapped and other disadvantaged citizens of New Mexico. So it was that each bill in its turn and after due legislative process emerged. Victory was in sight.

Legislative Efforts Yield Positive Results

Among those measures enacted into law at the insistence of the Federation by the Twenty-Eighth Legislature of New Mexico are to be included:

HB 245: The Model White Cane Law, which amounts to a civil rights bill for the blind under "the equal protection provision of the Constitution.";

SB 264: A bill relating to the right of the blind to organize;

SB 146: A bill amending the election law provision as to voting assistance, whereby blind persons may be enabled to preserve the secrecy of the ballot;

SB 406: A bill to establish a method of fair hearing for those persons aggrieved under any state program affecting the blind;

HB 113: A bill amending the existing law with reference to guide dogs for the blind, eliminating the provision that a dog must be muzzled and adding other clauses to make it more uniform with other states; and

HB 111: A bill relating to the examination of blind or physically handicapped applicants with respect to state civil service or merit systems.

The New Mexico affiliate gratefully acknowledges the experienced advice and monetary assistance so generously bestowed by the National Federation and its officers. Were it not for their continual support and encouragement, this program would have remained only a vision and never enjoyed the pleasure of reality.

ALL HAIL NEW MEXICO!

All hail New Mexico! That state has just written into law the most important batch of legislation affecting the blind ever passed anywhere at one time. The New Mexico Federation of the Blind and its friends worked long and hard, but their efforts have been spectacularly rewarded in the achievement of so many legislative goals.

Crowning this campaign is the passage of the Model White Cane Law, which was adopted in its entirety for the first time in any state. Not one provision of the Model Law was omitted--from the equal right of the blind to use public facilities through the annual proclamation of White Cane Day to the equal employment opportunity for the disabled, which, incidentally, includes the phrase placing the burden of proof as to unemployability upon the employing agency.

A great accomplishment is the state's new law guaranteeing the blind the right to organize. During the 1950's the NFB embarked upon a national campaign to free the blind from the oppressive actions of agencies by giving them the right to organize. Senator John F. Kennedy introduced such a bill in the Senate, and the campaign also resulted in passage of "Little Kennedy" bills in a few states, notably California and Pennsylvania. Now New Mexico has passed its own "Little Kennedy" bill, showing again what can be accomplished through aggressive and unified action.

Another feather in New Mexico's cap is a law providing a fair hearing procedure for persons aggrieved by the New Mexico division of

Services for the Blind. Such proposals have long been opposed by services for the blind, but the new Mexico enthusiasts got more than just a fair hearing process. They got an actual arbitration procedure whereby the appealing person and the agency each choose a member of the fair hearing board, and these members in turn choose a third.

Rounding out this legislative jackpot are a bill which prohibits the disqualification of blind persons from competitive entrance or promotion examinations and provides for a method of testing blind persons; a bill regarding assistance of blind voters which specifies that a blind person may be accompanied into the booth only by a person of his choice; and a bill which prohibits the barring of guide dogs from public places or the charging of a separate admission for such dogs.

Hearty congratulations seem an inadequate response to such an achievement, but they go out to the New Mexico Federation of the Blind and all who assisted its campaign. Also to be commended are the state's new governor, David F. Cargo, and both houses of the legislature. Deserving special mention are the sponsors of the various bills: Senators Ozzie Davis, Thomas R. Benavidez, Alex Martinez, Sterling F. Black, and R. Leo Dow; and Representatives Raymond Garcia, Ben Roybal, Robert A. Mondragon, Anselmo J. Serrano, Bennie J. Aragon, Richard B. Edwards, Jose Benito Chavez, Alfonso F. Vigil and Jim Lujan.

We salute you, New Mexico. You have achieved a victory which should be an inspiration as well as a challenge to your sister states.

NFB CAMPAIGNS FOR DISABILITY INSURANCE BILL

An intensive NFB campaign is under way to build House support for H.R. 3064, the Federation's long-sponsored congressional measure to obtain for blind persons a financial floor of security to offset the handicapping conditions of blindness in a sight-oriented economy and society.

The bill would amend Title II of the Social Security Act to liberalize the Federal Disability Insurance Law for blind persons by including in the law the generally accepted definition of blindness and allowing a person who meets this definition in visual loss, and who has worked for six quarters in Social Security-covered work, to draw disability insurance cash benefits so long as he remains blind, and irrespective of his earnings.

First introduced in the 86th Congress, the bill has twice passed the U. S. Senate, but was both times rejected by House-Senate conferences on Social Security matters.

Indiana Senator Vance Hartke will again introduce the bill in the Senate this session, and again many of his distinguished colleagues will join him in co-sponsorship. But experience has demonstrated that substantial support must be developed in the House if the disability bill is ever to become law.

Congressman Cecil R. King (California) introduced H.R. 3064 on January 19, 1967, and the following identical bills have been introduced by his House colleagues:

H.R. 5589 by Edward P. Boland (Massachusetts);
H.R. 5982 by Ancher Nelsen (Minnesota);
H.R. 6303 by Jerome R. Waldie (California);
H.R. 6624 by E. S. Johnny Walker (New Mexico);
H.R. 6943 by George P. Miller (California);
H.R. 7231 by W. R. Hull, Jr. (Missouri);
H.R. 7257 by Frank A. Stubblefield (Kentucky);
H.R. 7292 by Torbert H. Macdonald (Massachusetts);
H.R. 7841 by James J. Howard (New Jersey);
H.R. 7992 by Augustus F. Hawkins (California);
H.R. 7998 by Harry Helstoski (New Jersey);
H.R. 8075 by Armistead I. Selden, Jr. (Alabama);
H.R. 8120 by George H. Fallon (Maryland);
H.R. 8123 by Mrs. Margaret M. Heckler (Massachusetts);
H.R. 8328 by Daniel J. Flood (Pennsylvania);
H.R. 8335 by John J. McFall (California);
H.R. 8345 by Richard L. Ottinger (New York);
H.R. 8437 by Charles M. Teague (California);
H.R. 8445 by Mrs. Edna F. Kelly (N.Y.); and
H.R. 8514 by John H. Dent (Pennsylvania).

All Federationists and friends of the Federation are urged to write to their congressman and ask him to introduce in the House, if he has not already done so, a bill identical to Congressman King's Disability Insurance for the Blind Bill, H.R. 3064. You should tell your congressman to contact NFB Capitol Office Chief John Nagle at 1908 Q Street, Washington, D.C. 20009 if he has any questions about the bill.

Letters should be addressed: Honorable _____, House Office Building, Washington, D.C. 20515.

The great importance of the enactment of H.R. 3064 is indicated by the vigorous support this measure has received from all national organizations of blind people and all organizations and agencies which are professionally engaged in serving blind people.

GEORGE SHEARING: PATRIOTISM--AND ALL THAT JAZZ

(From the Los Angeles, California, Herald-Examiner
Week of March 26, 1967)

He says: "If you're going to live in a country and earn a good livelihood from it, you should become a citizen."

She says: "If you were asked to give up your American citizenship because you lived in another country, would you do it?"

This is the perennial "great debate" in the George Shearing household. George, a naturalized American since 1956, is an unabashed flag waver when it comes to talking about his adopted country. Trixie, his wife of 26 years, remains loyal to England, the land in which they were both born.

"My father was extremely patriotic," she explains, "and I was brought up the same way. I respect George's loyalty to this country, but I suspect I'll always be torn in mine."

It was his profession as a musician that unquestionably started his love affair with the United States. "I began my career with jazz," he says, "and jazz was born in America. It was always my desire to come here and become a part of that particular musical movement." It wasn't until 1947 that this became possible, but an incident ten years earlier was to leave a lasting impression on him. England was just beginning to take notice of this shy, 18-year-old pianist in 1937. Fats Waller was in London at the time. He heard the youngster "who blew jazz piano like an American." He tried to persuade George to return with him to the States, but Shearing declined because he felt it necessary to remain in England to care for his aged parents.

In at least one way it's well that he stayed. For he met Trixie in an air raid shelter (he played piano there to calm the crowd) in 1941.

The Shearings sailed for a three-month vacation trip to the United States in 1946 and, liking what they saw, returned exactly a year later for a longer stay. His reception, as he put it, was "far from enthusiastic." Discouraged and financially troubled, he returned to England to fulfill some record commitments, while Trixie remained behind to battle booking agents on his behalf. Finally she succeeded in persuading a nightclub impressario to feature George and his trio at the Clique, later to become Birdland, the jazz club of Shearing's famous lullaby (and who hasn't heard of Lullaby of Birdland?).

George, who because of his blindness has total recall in almost all matters, reminisces without bitterness about the hardships they encountered getting a professional start here. "I've always felt so at home in this country. I'm just about convinced I was born here," he states in a voice that sounds more Yankee than Tommy.

Yet the Shearings cling to one tradition few Englishmen are able to abandon: afternoon tea. Every day, wherever they are, the tea kettle is put on at 3:30 p.m. On tour it's placed on a hot plate; in their Toluca Lake home it's served in the airy breakfast room or his cork-walled studio. Joining the couple is her poodle "Sprout" and his golden retriever "Leland." So devoted to "Lee" is George that he has even composed a song for him--Lee's Blues--or, You Ain't Nothing But a Guide Dog. The animals' attendance at teatime is for more than just companionship; they're served the brew, too. "We English believe it keeps dogs healthy," Trixie advises.

Occasionally the Shearings' 23-year-old daughter, who works as a secretary and lives in Hollywood, joins them for the daily ceremony.

Apart from the "typically English" menus Trixie occasionally prepares from an ancient Mrs. Beaton's Cookbook and a collection of fine English silver, china and bric-a-brac, everything about the household is almost thoroughly Americanized.

"I manage to overcome my spells of homesickness by returning to England every two years," the blue-eyed blonde says. "Then I scour the shops for treasures to bring back." He seldom journeys there except for a concert tour, or, as was the case last year, for a special occasion--the couple's silver anniversary. One of the reasons: as an inveterate on-the-go devotee, he finds England's pace somewhat sluggish. She thinks the atmosphere is restful, believes people there are so relaxed "you can pin them down to something."

And so the debate continues with her rhapsodizing about the pastoral English countryside while he, recalling the nasty London winters, sits in a balmy Southern California cross-breeze and smiles.

AUSTRALIAN BLIND FIGHT FOR WCWB SEAT

Organizations of the blind in Australia, despite a long and continuing struggle, remain excluded from the World Council for the Welfare of the Blind. At present both Australian delegates to the WCWB are selected by the Australian National Council for the Blind, a council of agencies for the blind.

The Australian Federation of Organisations of the Blind has persistently fought for the right to appoint one of the country's delegates, arguing that a basic democratic concept--the right of the blind to representation in organizations speaking for them--is at stake. But the National Council, with the tacit support of the WCWB, has steadfastly refused to allow the organized blind a seat.

Besides general democratic principles, the controversy specifically hinges upon conflicting interpretations of a 1964 amendment to the WCWB constitution which states: "Where in any country there exists a substantial group of blind persons organized into associations and where there are blind persons occupying leading positions in agencies for the blind, adequate provision should be made for their representation in the national delegation." This amendment was introduced by the United States and United Kingdom agency-dominated delegations in order to head off an amendment proposed by the organized blind which would have guaranteed at least 50 per cent representation to organizations of the blind in countries where they exist. Thus the 1964 amendment was a compromise which provided both in letter and in spirit for representation of the organized blind.

The Australian Federation insists that it is entitled to a seat on the delegation, as "adequate provision" under the amendment has not been made for representation of the organized blind in Australia. The Federation called upon Eric T. Boulter, former United States delegate and current WCWB president, for assistance in correcting the situation. Boulter ruled last November that selection of the delegation is a purely internal affair, in effect upholding the status quo. He also interpreted

the 1964 amendment to require only that adequate representation be given either to substantial organizations of the blind or to blind persons working in the agencies.

The Reverend Noel S. McCaw, a blind minister who does not represent the Australian Federation in any way, was appointed to the delegation by the National Council last fall in a move which satisfies Boulter's erroneous interpretation of the amendment while still denying representation to the organized blind. In addition the National Council sought to pull a propaganda sneaker by offering Council membership to the Australian Federation, although under terms that the latter could not possibly accept. The offer, applying as it did to the Federation as a whole and not to its constituent organizations, would have left the Federation a voice in the wilderness among the agencies comprising the National Council.

DETROIT JUDGE DISCUSSES PROTECTION OF DEAF IN COURT

(From the Van Nuys News)

"Deaf persons of normal intelligence have been unjustly committed to mental institutions by many courts through failure to distinguish between mental incompetence and the communications barrier between deaf and hearing people," Detroit Judge Joseph J. Pernick said.

Judge of the Common Pleas Court since 1962 and the son of deaf parents, Judge Pernick has served the deaf as an interpreter, as an attorney, and as an adviser to associations and government agencies.

A Chicago case illustrates the wall between people that results from deafness, and the responsibility of our judicial system to provide competent interpreters in order to safeguard the rights of all who come before our courts, Judge Pernick said.

A deaf man accused of robbery was placed on trial. The public defender did not get an interpreter, did not communicate with the deaf man at all, and consequently did not really defend him. The state psychiatrist did not understand sign language, did not communicate with the man, and did not get an interpreter.

The deaf man was incorrectly held to be mentally incompetent and was put in a mental hospital for the criminally insane.

Judge Pernick pointed out that only five of the 50 states have laws requiring interpreting services for the deaf in criminal courts.

"It is my feeling that unless a competent interpreter is furnished to a deaf defendant in a criminal matter, then his rights which are guaranteed under our federal and most of our state constitutions would be denied," he said.

THREE VIEWS OF SHELTERED SHOP MINIMUM WAGE

[Editor's note: The Davis Memorial Goodwill Industries in Washington, D.C. laid off 38 handicapped workers last December and January because of declining sales and because the company said it could not afford to pay them the new higher minimum wages now required under federal regulations brought about by the NFB. Three different views of the affair follow: (1) an editorial in the Wall Street Journal, an opponent of government social legislation; (2) a letter published in the Journal from the U.S. Department of Labor defending the government position; and, (3) a letter mailed to the Journal by Russell Kletzing putting forth the position of the blind.]

(1) A New Handicap for the Handicapped-March 7, 1967--Long before the Government began urging employers to hire the handicapped, Goodwill Industries of America was doing so in a sizable way. Now, however, the charitable organization's efforts have run into an unusual obstacle.

Local units of Goodwill Industries collect gifts of surplus material from the public. Handicapped workers sort, repair and recondition this material, which then is sold through stores designed mainly to serve low-income groups.

The workers, a number of whom are severely handicapped, are not paid a great deal. Many of them are only beginning to pick up the skills that frequently make it possible for Goodwill's employes to move on to much-better-paying jobs in regular industry.

While it seems like a reasonable pay arrangement, it does not accord with Federal minimum-wage theory. In the official view, any employer who pays less than the Government's figure is ruthlessly exploiting his employes and must be whipped into line.

So what happens? At Davis Memorial Goodwill Industries in Washington, D.C., last month's increase in the minimum wage has led to the layoff of 38 handicapped workers. Even a charitable outfit, if it wants to stay alive to help anyone, has to keep its outgo in line with income.

Stressing that the layoff is intended as temporary, a Goodwill Industries official says the employes will be rehired just as soon as the agency can afford it. In the meantime, some of the workers may wonder about the goodwill of a Government that goes around creating new handicaps for the handicapped.

(2) Letters to the Editor-March 13, 1967--Your editorial "A New Handicap for the Handicapped" is obviously based on erroneous information concerning the "furloughing" of 38 handicapped workers by Davis Memorial Goodwill Industries of Washington, D.C.

It is true that 38 handicapped workers were "furloughed" in January. The facts do not support the charge, however, that the layoffs were due to the increase in the minimum wage law on February 1 or to the Labor Department "whipping" everyone "into line."

Rather, the cause of the layoff seems to be a simple matter of basic economics--the play of the market place--according to reports. Goodwill's sales at its 11 retail outlets in the Washington area have slipped $35,000 a month. Reduced sales in any business usually mean layoffs.

Goodwill says its sales are now picking up and it is recalling a number of the workers "furloughed" in January.

Your editorial completely fails to report the efforts made by the Labor Department to assure that handicapped workers are not displaced by increased minimum wages. By law and practice it is possible to pay a handicapped worker as little as 35 cents an hour--well below the $1.40 minimum--if it can be shown that the individual worker is incapable of producing more.

Davis Memorial Goodwill Industries has had for many years general authorization to pay its handicapped workers less than the prevailing

minimum hourly rates. Its current general authorization is for $1.06 an hour.

While Goodwill can request rates for individual workers lower than $1.06 an hour, and it was so reminded early in the year along with all other sheltered workshops, it did not do so prior to "furloughing" the 38 handicapped employes. This would strongly indicate that higher pay rates was not the problem. /s/Clarence T. Lundquist, Administrator, Wages and Hour and Public Contracts Divisions, U.S. Department of Labor, Washington.

(3) Letter from Russell Kletzing-March 31, 1967--Your unfortunate editorial "A New Handicap for the Handicapped" was only partially answered by the March 13 letter, which you published from Labor Department official, Clarence T. Lundquist. The editorial deplored the application of the federal minimum wage law to handicapped workers in Goodwill Industries. This law was enacted last year by the Congress after a decade-long struggle led by the National Federation of the Blind. Blind and handicapped workers themselves in sheltered workshops, including Goodwill Industries, were the ones who wanted minimum wage protection. Goodwill Industries and the Association of Sheltered Workshops were the ones who opposed enactment of this bill by the Congress. As enacted, the bill only requires that blind and handicapped workers in sheltered shops be paid 50 per cent of the federal minimum wage, or 70 cents an hour at the present. We are now sponsoring legislation that will raise this gradually to the full federal minimum wage. In addition, there are exceptions for those in training or for multihandicapped persons, who are unable to engage in competitive production.

I think your readers would be shocked to know how low the wages to handicapped workers in sheltered workshops actually are. According to Labor Department statistics for July 1, 1966, when the minimum wage was $1.25 per hour, there were 229 workshops employing 7,106 employees, who had obtained approval from the Labor Department to pay their workers less than 25 cents an hour. More than half of the handicapped sheltered shop workers were employed in establishments which were paying minimum wages of less than 75 cents per hour. The Labor Department investigations showed more than 1,000 violations of even these low minimum rates. Contrasting with the deplorable wages of the handicapped workers, managers and other nonhandicapped employees of sheltered workshops receive reasonably good salaries, well above the federal minimum.

It should be borne in mind that nearly all sheltered shops are supported by contributions from the public of money, material, or both, and

are also frequently given government funds. The attitude of workshop management could make one wonder. Why is workshop management so opposed to minimum wage protection for their handicapped workers, whose welfare is supposed to be the primary object of the shops? Does the public really know how little of its contributions go to the wages of workers as compared to the salaries of management?

GEM STATE BLIND WIN COMMISSION

By Uldine Thelander

Despite a series of mix-ups and a few brushes with certain death, a bill creating a Commission for the Blind recently became law in Idaho after a persistent campaign by the Gem State Blind. The commission will have three members, one of whom must be sightless.

The Idaho blind had made an attempt in 1945 to establish a commission, but succeeded only in obtaining a small Services for the Blind under the Department of Public Assistance. The 1966 convention of the Gem State Blind renewed the effort, instructing its legislative committee to draft legislation for a commission and to try to put it through the 1967 legislature. The story of the committee's campaign is an exciting one.

The first bill was drafted by the Idaho Legislative Counsel at the request of Jesse Anderson, Gem State Blind Legislative Committee Chairman. Through some bungling of the House Health-Welfare Committee, H.B. 110 (which later became H.B. 287 after some changes by Mervin Flander) was introduced and given a number without having been voted out of committee. It was then referred to the State Affairs Committee where it would have died had not the chairman been interested in us.

Before we knew of the blunder and the bill's referral to the State Affairs Committee, we had asked the National Federation for help and Mervin Flander was sent to us. He very effectively presented the merits of a commission before the House Health-Welfare Committee. Even though the hearing was before the wrong committee it helped us a great deal by making legislators aware of our bill and informed as to its purpose.

The bill was then sent to the printer, where it was the intention of some of our opposition that it die unprinted. After several days of

delay, we at last rounded up some influential support which brought the bill back from the printers. It was then assigned to the State Affairs Committee, where we knew we had important friends as well as influential enemies. The Commissioner of Public Assistance had stated publicly that if we got the commission we wouldn't be able to get it funded, and his opposition was undercover and powerful.

The Chairman of State Affairs was worried. He told us that he had tried to get the bill voted out of his committee but that there was opposition. Opponents of the bill listed these objections: the present administration opposed the establishment of more commissions; a commission could not serve the blind any better than they were already being served; there would be no funds to operate the commission; a changed program in the Department of Public Assistance could do the work better than the commission. Opponents also charged that supporters of the bill belonged to a conspiracy of blind persons located chiefly in Boise who did not represent the blind in the rest of the state.

The committee chairman agreed to grant us a hearing if we could get someone from the National Federation to present our case to the committee. We arranged with the Federation for John Taylor to be sent from Des Moines to assist us. He spoke before a very interested group of legislators, and the bill was eventually voted out of committee with a "Do Pass."

When the bill hit the floor for a vote, its floor manager made a very fine presentation of our case and answered questions in a masterful way. The bill finally passed the House by a vote of 49 to 12.

The Senate Bill was also drawn up by the Idaho Legislative Counsel. We asked the President of the Senate to assign the bill to the Senate State Affairs Committee, but his mind was made up to refer it to the Health-Welfare Committee, where we weren't sure of our friends. Things looked rather uncertain so again we appealed to the Federation for help. Mervin Flander came to us again from Nevada, and he persuaded the Chairman of the Health-Welfare Committee to refer the bill to the Joint Senate-House Finance-Appropriation Committee.

Here again the bill came near death as our opposition was very strong. And when Mervin Flander had to return to Nevada, leaving the bill in the Finance Committee without the slightest promise of getting it out, things looked pretty hopeless. We called Dr. Jacobus tenBroek to ask if, after having spent so much money and effort, the Federation would want us to fight on or give up. Much to our relief he said emphatically to fight on, and he sent John Taylor out again. John was able to get an

audience with the elusive Chairman of Finance, who allowed him and the Gem State Blind President a five-minute presentation before the committee. We talked fast and seemed to soften things up a little, as the legislature had run many days overtime and was trying to wind things up. But that afternoon John had to leave and again the situation looked bleak.

The final hours of the struggle were dramatic. Jesse Anderson led us very effectively during the last hours of the battle. We decided that if the Chairman of the Finance Committee did not bring the bill out on the floor, we would force it out. We and our opposition knew that we had enough support to pass it. The Mayor of Boise came along about that time, and we enlisted his help. He hailed the President of the AFL-CIO, who in turn contacted some influential senators while some of our members button-holed others. We informed the Finance Chairman that we had the votes to force the bill out of committee, and he brought it out just before 6:00 p.m. The legislature was planning a night session, after which it hoped to adjourn.

The Senate wanted to amend the section of the bill exempting the commission personnel from State Personnel Commission control. We agreed to that, and about 10:00 p.m. the bill came up for a vote. No one spoke against it, and it passed 33 to 0 with two absentees.

The bill then returned to the House to be voted on as amended. The Senate Finance Committee had decided that the commission should be funded by the money included in the appropriation to the Department of Public Assistance for Services to the Blind. The Senate was to send a letter over to the House explaining how the commission was to be funded.

We all went over to the House to see the thing through. Things looked brighter now. The House passed the amendment about 11:00 p.m. and was preparing to vote on the amended bill when one of the representatives who favored the bill said with a start, "There is no appropriation with this bill. We can't pass this bill without knowing how it is to be financed." The letter from the Senate had not arrived yet.

Jesse Anderson was in the gallery. Jesse had served as representative in the House many years ago and therefore was allowed on the floor. He and his guide dog tore down to the floor and told the legislators that a letter was due from the Senate. The letter arrived in time to save the day, and the vote was 59 to 1 with ten absentees.

We had seen the Governor several times and he had assured us that he would sign the bill. It seemed an unnecessarily long time before the bill reached his desk, and we heard rumors that our opposition was

attempting to persuade him to veto the bill. We called at his office again and were assured that he would keep his word. He signed the bill into law April 11.

During John Taylor's first visit, he and Jesse Anderson had gone to the Bureau of the Budget to determine how much money the Department of Public Assistance intended to use for Services for the Blind during the next two years. This was the amount which the Senate had channeled to the Commission for the Blind. John and Jesse were able to identify $80,475, but they think there is more hidden in secretarial salaries and other expenses. If this amount is skillfully matched with federal funds, the commission can operate successfully for the first two years and then hope for a more generous contribution from the next legislature.

BLIND USE SOUND TO SEE

Like the bottle-nosed dolphin in the depths of the sea and the bat in a belfry at night, 20 blind persons undergoing tests at the Fremont Bio-Sonar Laboratory of the Stanford Research Institute are using sound echoes to "see" where they are going and to distinguish the size and distance of objects, the Associated Press reports.

By analyzing the echoes from such self-generated sounds as clicking the heels or clucking the tongue, the subjects have shown the ability to detect an object 2.8 inches in diameter from three feet away 75 to 85 per cent of the time, according to Dr. Charles E. Rice, 36, research psychologist in charge of the three-year-old laboratory project.

As one student explains the process: "I line up the echo with my face. It is like looking until something is in front of you and you can see it with both eyes. When something is in front of me, I hear it the same with both ears."

Echo sound analysis has also shown a blind person's ability to differentiate sizes, although tests have shown that one object must be at least ten per cent bigger than the other. One blind person tested was able to discriminate among three different-sized objects with 90 per cent accuracy. Others could discriminate between only two.

The key to his work, says Dr. Rice, is high frequency sound. The human range of sound is up to 20,000 cycles a second, while a bat's range is up to 100,000 cycles. The higher the frequency of the echoing sound, the smaller the object that can be detected. "A bat in search of food can use echo perception to home in on a flying insect," Dr. Rice points out, "even when that insect has gone into the thick branches of a tree."

Dr. Rice is coordinating his work with that of New Zealand electrical engineer Leslie Kay, who has created a device which can bring ultrasonic signals with their echoes into the human frequency range. It promises much sharper usage of sound echoes for blind navigation and detection.

RABBI TESTS HEBREW BRAILLE CODE IN ISRAEL

(From The New York Times)

Rabbi Harry J. Brevis, originator of the international Hebrew Braille Code, left recently for Israel to test his new shorthand Braille at the Jerusalem Institute for the Blind.

The Jerusalem Institute is the biggest school for blind persons speaking Hebrew. Therefore it provides a good opportunity to test the code.

Rabbi Brevis' new code may make it possible to reduce the 20-volume Hebrew Bible to ten or fewer volumes, according to the Jewish Braille Institute of New York.

The rabbi was born in Russia on March 9, 1898, and was brought to the United States in 1910. He was graduated from the University of Michigan and the Detroit College of Law. In 1925, two years after he began law practice, he became blind. He then enrolled in the Jewish Institute of Religion in New York.

By 1930, Rabbi Brevis had developed a Braille code that was to supersede five other systems. In 1930, The Synagogue Council of America asked him to participate in an international committee of scholars to select a code acceptable to all. Rabbi Brevis' code, the simplest,

was chosen and has since become the international standard of Hebrew Braille. He now teaches at the Hebrew Union college in Los Angeles.

THE BURTON MINIMUM INCOME BILL

Congressman Phillip Burton of California (San Francisco) introduced H.R. 335 in the Congress on January 10, 1967. This bill would amend the Social Security Act to establish a national system of minimum retirement payments for all blind persons aged 16 and over, all persons 62 years of age and older, and all permanently and totally disabled persons 18 years of age and older. Each of these individuals would receive a guaranteed monthly income equal to the Federal minimum wage.

At present the Fair Labor Standards Act sets the minimum wage at $1.40 per hour, to be increased to $1.60 an hour next January. Based on the current rate, this would mean that were Mr. Burton's bill to be enacted, each blind or disabled or older person would be paid $242.00 a month, less any net income which he was receiving from any source. Payments would be made through the Social Security Administration and the amount of the payment to any eligible person would be determined by subtracting his net income from all sources (as listed by him on a statement he would file) from $242.00, the difference being the amount of his payment each month. Thus, if an individual's total net income was $50.00 a month, he would receive a payment of $192.00.

Applications would not be routinely investigated. However, the Social Security Administration is given authority to verify by random investigation of not more than 10 per cent of all applications (including statements of net income and proof of blindness, age, or disability) the accuracy of these documents. Thus, while payments under the program would be based on need as measured by the Federal minimum wage, most of the objectionable features of the 'means test' which presently surround public assistance payments would be eliminated.

It has been estimated that under this program some 25 million Americans would receive payments amounting to about 40 billion dollars a year, with the amount of present public assistance payments to the blind, aged, and disabled being an off-set against this cost.

Public interest in the situation of the poor--the Economic Opportunity Act, the awareness of the needs of the poor for services, etc.--these have led to a new look at our public assistance programs. If some 30 million persons are suffering from poverty, why are only 7 or 8 million Americans receiving public assistance? The answer is the means test (counting each penny even unto the third generation), plus the very low standard of assistance worked out for most recipients of public assistance. The sound provisions barring durational State residence and setting very limited responsibility of relatives provisions under Title XIX of the Social Security Act establishing medical care programs for public assistance recipients are halting steps away from some of the harsh features of the means test.

The guaranteed minimum income proposal has several variants. However, all of the schemes seek to supplement an individual's income up to a given minimum amount. If $2,000 is the poverty line for an individual per yearly income, should not every person be guaranteed at least an amount of income from the government which, together with his net income from all sources, would equal $167 a month?

Another proposal is the so-called 'negative income tax' sponsored by a number of leading economists, among them Milton Friedman, President of the American Economic Association. The proposal assumes that a family with three children needs at least $3,000 annually to survive in the United States. Those earning less than $3,000 should receive a payment from the Federal government, a 'negative tax'. President Johnson and his economic advisors are reported to be studying such a plan to replace the present inadequate and varied patterns of relief and welfare payments to the poverty-stricken now in existence in this country.

During the years in which he served as a member of the California Legislature before going to Congress, Phillip Burton became one of the principal architects in building sounder social welfare programs in his home state. He has worked in warm collaboration with the California Council of the Blind and the National Federation of the Blind in their legislative goals. Thus it is not surprising that Phil Burton would offer this proposal for a guaranteed minimum income for the blind, aged, and disabled, the boldest and most imaginative of the several plans being advocated.

GONZALES APPOINTED TO SCHOOL BOARD

By G. R. Bobeen

Albert Gonzales, prominent Santa Fe attorney and long-time Federationist, was recently appointed by Governor David F. Cargo to serve a six-year term on the board of the New Mexico School for the Visually Handicapped at Alamogordo.

Gonzales and his wife Virginia have attended many NFB conventions and served as chairmen of the host committee for the 1959 Santa Fe convention, which they were instrumental in bringing to New Mexico. Gonzales is a founding member and former president of the New Mexico Federation of the Blind. He has also served as a member of the New Mexico legislature and was U.S. Commissioner in the state at a time when the Los Alamos atomic energy project made that post unusually important.

Gonzales' appointment climaxed an intensive team effort initiated by aggressive New Mexico Federationists, who are determined to have dynamic and progressive representation in their state's administrative and policy-making councils when and wherever concerned with the affairs of the blind citizens of New Mexico.

I am sure that Federationists everywhere will join me in extending their congratulations and best wishes to Gonzales for every success in this vital undertaking.

SHALL THE BLIND BE LED BY THE AGED?

NFB officers are paying special attention to state laws barring discrimination in private employment because of age with an eye to determining whether similar employment guarantees would make sense for the blind.

Laws prohibiting discrimination because of age are now on the books--most of them very recently--in 22 states and Puerto Rico, according to a U.S. Labor Department summary. These laws are far-ranging, and there is no reason why similar laws regarding blindness or

other disabilities could not be of equal scope. Nine laws cover all private employment, while others exempt certain occupations or organizations such as domestic service; family employment; farm employment; non-profit social clubs; religious, charitable, educational, or fraternal organizations; and employers having only a handful of employees.

In general, these laws prohibit employers from refusing to hire, discharging, or discriminating in compensation, terms, conditions, or privileges of employment solely because of the employee's or applicant's age. Labor organizations are forbidden to deny full membership, expel from membership, or discriminate in any way against members, employers, or other employees because of age. Most states also prohibit such discriminatory practices by employment agencies as refusing to classify persons properly or refusing to refer them to job opportunities.

Employers and employment agencies are similarly forbidden to use any application or to print or circulate any statement, advertisement, or publication which expresses, directly or indirectly, any limitation, specification, or discrimination as to age, unless based on a bona fide occupational qualification. Other laws void discriminatory contracts, prohibit licensing agencies from refusing to license persons because of age, and forbid discrimination in apprentice and on-the-job training programs.

Important qualifications all too familiar to the blind are included in most of these statutes. All but a handful do not apply when the apparent discrimination is based on a bona fide occupational qualification, or when the person is physically or mentally unable to perform the duties of the job. Several of them do not apply to apprenticeship or training programs.

Many of these state laws feature employee safeguards that should be a part of any similar laws dealing with the blind. To prevent retaliation against employees, 15 states forbid employers, unions, and agencies to discharge, expel, or otherwise discriminate against an employee or applicant because he has opposed unlawful actions, filed a complaint, or assisted in any proceeding under the law. Eleven state laws also forbid any person to aid, abet, incite, compel, or coerce another to violate the statute.

Enforcement of these laws barring discrimination on the basis of age is usually the task of either state labor departments or state anti-discrimination commissions. In most instances the administrative agencies are empowered to investigate complaints and, if necessary, to require the guilty party to cease the discriminatory practice and take such affirmative action as hiring, reinstating, or upgrading the employee. Fines and

imprisonments are last resorts in most states, but the only sanctions available in others.

An interesting provision in several of the laws which the blind might keep in mind is the authorization of educational programs to reduce or eliminate discrimination because of age. The administrative agencies issue pamphlets, press releases, and publications to inform employees and employers of their rights and responsibilities, and they make reports to the legislatures on complaints, problems, and recommended legislation.

ST. LOUIS STRIKERS JOIN MACHINISTS UNION

Striking Lighthouse for the Blind employees in St. Louis are continuing the walkout which began March 2 in an effort to win an audience with management over a list of grievances. Meanwhile they have picked up influential support from labor and from two city aldermen.

The most significant development occurred when some 90 Lighthouse employees joined the International Association of Machinists and Aerospace Workers, District 9. The union assumed direction of the strike March 27 in an all-out campaign to win "livable conditions and wages" for the workers, and it is supplying to each of the 55 picketers $40 a week in strike benefits, as much as many of them made while working in the shop.

The striking employees are demanding that management recognize the union, reinstate five fired strike leaders, and discuss a list of grievances which includes the hiring and promotion of more sighted than blind workers, filthy and hazardous working conditions, failure of management to honor seniority, inequitable vacation policy, and derogatory remarks about blind people by members of management.

"To say the least," said union organizer John Jegel in the St. Louis Labor Tribune, "the St. Louis Lighthouse workers are at the mercy of management--management which has mistreated and mishandled these people to suit their own whims with little regard for the individual worker's needs or abilities. In any sense of the words fairness and justice... this is wrong, morally, and we feel, legally. District 9 is going to try and change these conditions."

Some 35 to 40 Lighthouse employees, mostly supervisory personnel, are still at work in the plant at 2321 Locust Street, and Jegel told the Monitor that no effort was being made to keep these people from crossing picket lines. "This is a peaceful informational picket," he emphasized. Jegel guessed that there was little work remaining inside the plant, as shipping and receiving have been virtually halted by Teamsters and other union members who are respecting the picket lines. Local civil rights groups have also expressed support for the strikers.

Major Puckett, spokesman for the striking Lighthouse employees, told the Monitor that he was recently dismissed from his job as an inventory control clerk. Four other members of his negotiating committee were also fired, and management sent out letters to the other strikers threatening similar action if they did not return to their jobs. Puckett said that eight of the picketers had already been placed in other businesses.

At a meeting with the city aldermanic council, Puckett got personal pledges of support from aldermen Raymond Leisure and Joseph P. Roddy. But city welfare director Arthur J. Kennedy told the two officials that his agency did not have the authority to investigate grievances at the Lighthouse.

Puckett reported that the Lighthouse board of directors had offered to set up a two-man arbitration committee to investigate the workers' grievances, but the strikers unanimously rejected the offer because the directors refused to recognize the union or to reinstate the fired workers. "So we are continuing to picket the plant 12 hours a day, six days a week," said Puckett.

The present dispute is an outgrowth of a similar strike at the plant in 1962 when workers also demanded better conditions. At that time the National Labor Relations Board in effect upheld management's position. The NLRB has refused jurisdiction in the present case because the Lighthouse's "non-profit" status brings it under the sheltered workshop laws. The Board recently rejected a Machinists union appeal based on the contention that the Lighthouse was providing stiff competition for many shops already under contract.

At least four other sheltered shops for the blind are currently organized. The Seattle sheltered shop has been unionized for many years, and the three shops of California Industries for the Blind have been organized, beginning with the Berkeley shop in 1963.

The St. Louis Lighthouse for the Blind, a United Fund agency, makes brooms, mops, pillow cases, and dust cloths. The 1967 budget for the operation is estimated at over $590,000.

SENSORY GARDEN PLANNED IN NASSAU

(From The New York Times)

Mineola, Long Island--Plans for an unusual half-acre $30,000 garden appealing to the senses of touch, smell, taste, and sound were announced recently by Nassau County executive Eugene H. Nickerson.

The sensory garden, proposed as part of the new county park at Wantagh and intended for the enjoyment of both blind and sighted persons, will feature a winding path surfaced with various materials correlated with plants having particular characteristics.

Rough concrete will indicate an area of fragrant plants, cobblestone will mean plants with interesting textures, and a spongy surface will indicate plants that can be tasted. A rock garden with continuously recirculated water cascading into a pool will provide a background of sound. Signs in braille identifying the plants and providing background information will be set on guide rails.

"This unusual garden will be a delight to our fellow citizens who must rely on senses other than sight," Mr. Nickerson said. "Recreation planning too often bypasses the sightless and almost sightless. The garden at Wantagh Park will open a new world for them."

SACRAMENTO SOCIAL WORKERS CONTINUE RECORD STRIKE

The longest public employee strike in California history continues to set new endurance records as some 200 striking Sacramento County social workers remain off the job.

The strike began February 7 when 260 social workers walked out, seeking union recognition and the right to negotiate. The strikers are members of Social Workers Local 535, an affiliate of the AFL-CIO Building Service Employees union.

County officials, adhering to their traditional stand that they cannot bargain with a union, have refused to negotiate since March 9 when 186 strikers were fired from their jobs. The workers' appeal for

reinstatement was rejected by the county civil service commission, and several workers have since left the area to find employment elsewhere. The county's final blow was a court order restraining picketing in the broadest terms. 70 arrests resulted as police set up fingerprint and booking operations on the streets.

In retaliation the union staged hit-and-run picketing and mustered labor and community support. The Sacramento Area Economic Opportunities Council called upon the Board of Supervisors to bargain with the union and staged a Good Friday Pilgrimage for the Poor to protest curtailment of services, increased tax burdens resulting from withdrawal of federal funds, and damage to "Sacramento's good name."

Peaceful picketing resumed on March 17, the day after the District Court of Appeals threw out charges filed against four private citizens arrested for picketing. The municipal court interpreted the District Court ruling to extend to all non-striking picketers, and charges were dropped against some 12 to 14 people.

Commenting on reports that a probe is forthcoming by federal agents of welfare administration in California, union counsel Coleman Blease said, "federal authorities haven't intervened as yet, but it looks as if they'll have to at some point. Until then court action is the only alternative, and that will take a long time."

The strike has broader implications, as AFL-CIO policymakers in the state view the situation as a do-or-die battle for public employee unions. They must either win or give up their attempts to organize the public sector.

Local 535 also has a deep stake in the outcome. Its Los Angeles members staged a pair of strikes last summer which ultimately went to court and came out quite favorably for the union. Since then, Local 535 has picked up units in Santa Barbara, Alameda, and Santa Clara counties, in addition to Sacramento.

Sacramento County has an estimated 36,000 welfare cases totaling some 50,000 people.

MARYLAND EXPANDS WHITE CANE LAW

"Enclosed please find two Senate Bills and one Resolution that were introduced in Annapolis by Senator Verda Welcome at the request of the Free State Federation of the Blind, of which two passed and one was rejected." writes Ned L. Graham, Free State Federation Legislative Chairman, in a letter to President Jacobus tenBroek.

"Senate Bill No. 165 and Resolution No. 16 were passed and written into law at the 1967 Session of the Assembly in Annapolis, to go into effect June 1, 1967." Graham continues.

Senate Bill No. 165 incorporates the model law provision guaranteeing the blind equal enjoyment of public places and accommodations and the right to be accompanied by a guide dog in these places. Violation of this law is a misdemeanor. Resolution No. 16, which requests the governor to declare October 15 White Cane Safety Day, paraphrases most of the corresponding model law section.

"Senate Bill No. 166 passed the Senate," reports Graham, "but was rejected in the House. I am sending you a copy of this bill as drawn up by Dr. Carl Eberstine. If you can spare me a few minutes of your time while at the convention in California, I would like to discuss this bill and reconstruct it so it may be re-introduced at the next session of our General Assembly."

The rejected bill would have expanded a 1957 Maryland law requiring vehicles to come to a complete stop when approaching a person carrying a white cane or accompanied by a guide dog. The bill, in accordance with the model law, would have made any driver who failed to take proper precautions liable in damages for any injury caused a blind pedestrian. It also would have added that failure of a blind person to use a cane or dog would not be held to constitute nor be evidence of contributory negligence.

This, then, is the situation in which the law now stands in Maryland. The state has a provision with respect to blind persons having a cane or dog crossing streets at intersections. The right of the blind to be in public places and to use places of public accommodation is guaranteed. A legislative resolution calls the attention of the public to the presence of blind persons, thus in effect making it necessary for storeowners, building operators, and street maintainers to take reasonable precautions against their injury.

Not yet enacted into law are the model law provision safeguarding

legal rights of a blind traveler without a cane or dog, the provision making it state policy to encourage and enable the handicapped to participate fully in the social and economic life of the state, and the provision guaranteeing equal employment opportunities for the disabled in the public service.

"Through our untiring efforts," Graham continues in a discussion of other matters, "and with the assistance of Mr. Raleigh Hobson, Director of the State Welfare Department, we were able to have included in the State Welfare Budget a Travel Allotment for the Blind. Out-going Governor Millard J. Tawes in his original budget did not see fit to include the request of the State Welfare Department for the blind. After many letters and personal contacts by the organized blind, the new Governor, Spiro T. Agnew, reconsidered the request of Mr. Raleigh Hobson in our behalf and allotted the blind a ten dollar a month travel allotment in the budget passed March 25, which now awaits his signature. We realize that ten dollars a month is not nearly enough for travel for the blind, although it will amount to $22,397 a year. However, we feel we have opened the door and taken one step towards advancement.

"As Legislative Chairman," he concludes, "I feel this has been a successful year, thus far, for the blind in Maryland. The formation of the new chapter along with this successful legislation shows advanced improvement can be made with a little effort."

LOOKING OUT FOR THE LITTLE GUY

(Reprinted from California Council Bulletin)

The following material, which was furnished to the California Council Bulletin by a highly placed official in the State Department of Rehabilitation, provides a new and piercing insight into the nature of rehabilitation thinking.

Minutes of February 6, 1967, Meeting of the Council of State Administrators of Vocational Rehabilitation's Ad Hoc Committee on Rehabilitation of the Blind

The Council's Ad Hoc Committee on Rehabilitation of the Blind met in Washington, D.C., on the afternoon of February 6, 1967. The meeting was chaired by Burt L. Risley, Chairman, Committee on Rehabilitation of the Blind.

Attending the meeting of the Ad Hoc Committee were:

Mr. Joseph Kohn, Executive Director, New Jersey Commission for the Blind; Mr. William T. Coppage, Director, Virginia Commission for the Visually Handicapped; Mr. V. S. Harshbarger, Chief, Bureau for the Blind, Missouri Division of Welfare; Mr. Tommy McCollum, Supervisor, Services for the Blind, Georgia Division of Vocational Rehabilitation; Mr. L. H. Autry, Jr., Director, Arkansas Rehabilitation Services for the Blind; Mr. D. R. Mendelson, Chief, Division of Rehabilitation of the Blind, California Department of Rehabilitation; Douglas MacFarland, Ph.D., Chief, Division of Services to the Blind, Vocational Rehabilitation Administration, Department of Health, Education and Welfare, Washington, D.C.; Mr. George Magers, Training Specialist, Division of Services to the Blind, Vocational Rehabilitation Administration, Department of Health, Education and Welfare, Washington, D.C.; Mr. Burt L. Risley, Executive Director, Texas Commission for the Blind; Mr. Charles W. Hoehne, Assistant Director, Texas Commission for the Blind (serving as committee secretary).

A letter from Mr. Howard Hanson, Director, South Dakota Service to the Blind and Visually Handicapped, 804 North Euclid Avenue, Pierre, South Dakota, was read to the committee. Mr. Hanson apologized for being unable to attend the meeting of the Ad Hoc Committee, suggested topics in the general area of services to the blind requiring treatment, and outlined plans for an executive meeting of the Council of State Administrators of Programs for the Blind to be held in conjunction with the April 23, 1967, meeting of the council of State Administrators of Vocational Rehabilitation. After some discussion, the committee agreed that the items enumerated by Mr. Hanson indeed required extended consideration at the April 23rd meeting; however, it was felt that the April meeting should be conducted in the form of an open discussion, rather than being built around a highly structured agenda. It was further felt that the various issues mentioned as requiring extended consideration would best receive adequate treatment within the context of an open discussion type of meeting.

The Ad Hoc Committee then discussed present weaknesses in the Randolph-Sheppard Act, and possible congressional action needed to strengthen this legislation. A bill was discussed which contained the following provisions:

(1) The appointment of a presidential board to adjudicate differences on specific locations, with provision for a trial de novo in district court in those instances where the board might prove unable to satisfy all parties to the dispute;

(2) A broadened definition of "vending stand" such as that

almost any vending facility in a federal building would be included, thereby encompassing cafeterias, dining rooms, all vending machines, etc.;

(3) Statutory provisions on distribution of commissions from vending machines, such that the first 25% of all vending machine commissions would go to the operator, the second 25% would go to any employee's welfare union which might operate in the building and the final 50% to go to the state licensing committee--this coupled with provisions on decontrolled programs whereby all vending machine commissions would go directly to the operator;

(4) Provisions for fair hearings on disputes between operators (or persons desiring to become operators) and state licensing agencies, under which provisions an individual could request a hearing at any point and, if still aggrieved after the hearing had been completed, would retain the option of going into district court for a trial de novo.

The members of the Ad Hoc Committee found the foregoing legislative proposal to be entirely unrealistic. It was pointed out that the stringent fair hearing provisions would have the effect of making adequate supervision impossible. The concept of sole state agency control was felt to be threatened by the legislative proposal, because the presidential board, under the terms of this proposed legislation, would be given extremely broad and sweeping powers for adjusting differences between individuals and state licensing agencies, including provision of monetary redress to aggrieved parties.

Mr. Mendelson moved that the Ad Hoc Committee call upon VRA to sponsor a meeting on the necessity for further legislation to strengthen the Randolph-Sheppard Act, the meeting to be attended by all state administrators of programs for the blind, as well as by other interested organizations, with those attending the meeting to make recommendations to VRA as to the necessity for further legislation. It was additionally moved that the costs of the meeting be absorbed by VRA. The motion was seconded and adopted unanimously.

The committee then considered the role of blind agencies in Statewide Planning for Comprehensive Vocational Rehabilitation Services. It was pointed out that the administrators of programs for the blind were having difficulty in getting their viewpoints heard in some states. The point was made that problems in connection with Statewide Planning for Comprehensive Vocational Rehabilitation Services apply equally to programs of planning for facilities and workshops in the various states. The committee agreed that all administrators of programs for the blind have to be alert and vigilant if their programs are not to be left out of these planning activities.

It was pointed out that the burden of getting representation in these planning activities necessarily falls upon the blind agency. The suggestion was made that administrators of rehabilitation programs for the blind should not concern themselves unduly with details of the statewide planning activities so much as with other issues, such as making sure that planning activities are not perverted into movements designed to consolidate programs for the blind into the programs sponsored by general rehabilitation agencies.

Discussion then turned to the feasibility of further amending Public Law 89-333 to achieve greater uniformity and program adequacy in services to the blind. The committee agreed that the maintenance of program identity is essential, wherever the administrative location of the program might be. The provisions of P.L. 89-333 relating to major organizational status of blind programs apply only to those programs being operated separately from general vocational rehabilitation programs, and it was felt that this did nothing to improve rehabilitation services to the blind in those states where services were extended as part of the general rehabilitation program.

The need for unity among directors of programs for the blind was stressed. It was felt that directors of agencies for the blind need to stand together in order to have a voice in legislation and professional organizations. The Council of State Administrators of Vocational Rehabilitation was felt to be an appropriate vehicle for expressing the viewpoint of administrators of programs for the blind, but it was pointed out that administrators of blind programs need to be able to move ably within the framework of this organization. The committee members agreed that the program for the April 23 meeting of administrators of programs for the blind would be so organized and developed as the first step in developing the type of effective organized voice needed by administrators of programs for the blind.

The Ad Hoc Committee then considered the necessity of improving services to the blind extended through the Vocational Rehabilitation Administration, both at the regional and central office levels. It was pointed out that the Division of Services for the Blind now has only four professional staff, whereas the office had six professional staff members in 1954. The committee agreed that this was an untenable situation, particularly in light of the dramatic expansion of services under Public Law 89-333, and in light of the general growth of programs for the blind which has occurred since 1954. The committee agreed that the size of the Division of Services of the Blind staff was manifestly inadequate, that such staff needed to be considerably enlarged, and that staff members assigned to work specifically with agencies for the blind also were needed at the regional level. This was felt to be both practical and feasible in light of the distinctions between rehabilitation services for the blind and general rehabilitation services.

Dr. MacFarland was asked why the Commissioner of Vocational Rehabilitation had not taken action on a resolution adopted by the National Council of State Administrators of Programs for the Blind in which additional staff in the Division of Services to the Blind were urged. Dr. MacFarland pointed out that no action had been taken because VRA had been confronted with a freeze on positions until recently. Although the freeze has been lifted, problems still are encountered in recruiting the proper personnel.

Consideration was then given to the feasibility of establishing something equivalent to an on-going Ad Hoc Committee, capable of meeting frequently and moving quickly. It was emphasized that there is a definite need for some sort of viable body to serve as a voice for state administrators of programs for the blind, because of the rapidity of developments in vocational rehabilitation. It was moved that the National Council of Administrators of Programs for the Blind be called upon to appoint an executive committee capable of functioning in this capacity and that this executive committee work with the Council of State Administrators of Vocational Rehabilitation. Motion was seconded and adopted unanimously.

Discussion then turned to the effect of new wage and hour legislation upon sheltered workshops for the blind. It was pointed out that, as a general proposition, sheltered workshops for the blind exceed the minimum standards seemingly required under the new legislation. The committee did not feel, however, that the dimensions of the new wage and hour legislation have been defined with sufficient clarity to establish precisely what will be required. It was felt that there is a definite need for additional data, and that this particular legislation--apparently adopted without reference to the needs of sheltered workshops for the blind--constituted another example of why administrators of programs for the blind need to have voice and unity.

There being no further business before the Ad Hoc Committee, the meeting was adjourned.

HERBERT R. BROWN, V.R.S. DIRECTOR, RETIRES

By Bill Dwyer

Herbert R. Brown, Director, Vocational Rehabilitation Services, State Department of Social Welfare, Albany, New York, will retire on

May 1, 1967 after serving for 23 years in that position.

Mr. Brown had the privilege of setting up the unit. It has grown considerably over the years in order to meet as adequately as possible the growing needs of severely handicapped blind persons.

Originally the program had a budget of about $200,000, and only eight counselors covering the entire state with two supervisors and a director and necessary stenographic staff.

There are now some twenty-five counselors, five supervisors, a director and assistant director, plus the necessary clerical staff, and the budget runs approximately $2,000,000.

Plans are under way and have tentative approval for the addition of a third office in New York City of one supervisor and six counselors, and the addition of two supervisors and three more counselors upstate. This will permit more careful and thoughtful and complete service to additional numbers of persons.

Mr. Brown has held many national offices, the chief one of which was president of the States Council of Directors of Vocational Rehabilitation, a national group of some 97 directors of blind and general agencies. He held this office for two years, 1962 and 1963. At that time he arranged for the coordination of the Council's activities with the National Rehabilitation Association in order to more effectively safeguard the rights of the handicapped including the blind.

Mr. Brown was also past president of the New York State Federation of Workers for the Blind. He held this office six years. During that period, he was successful in bringing together the New York State Federation of Workers for the Blind and the Greater New York Council of Workers for the Blind, so that they are now one all-encompassing group and are, therefore, more effective in their planning and operations relative to and for the needs of the blind.

Mr. Brown received the Anne Sullivan Macy Award in April 1966 for outstanding service to deaf-blind.

A luncheon was given in Albany on April 13 and a dinner in New York City on April 17 by the staff and many friends of Mr. Brown throughout the state.

'LET THE BLIND LEAD US,' SAY BLIND

(From the Seattle, Washington, Post-Intelligencer)

The blind would like to be led by the blind.

At least a portion of the sightless persons who use the facilities of the Community Services for the Blind would like their programs administered by someone who knows the problems they face--through experience.

A petition, taking exception to administration of the CSB program and to some of the program itself, has been submitted by more than 150 blind persons to the organization's board of directors.

"For 16 years Fuller Hale, who was blind, administered the Community Services for the Blind with a small staff," a sightless man told the Post-Intelligencer.

"When Charles Brown took over and brought in Stan Briller as director of professional services, things changed," he said. "They are both sighted persons. They don't seem to understand our problems."

CSB board president Justin Martin said the board has received the petitions and is "now in the process of fact finding."

Asked how many names were on the petitions, he said: "I think it's pretty close to somewhere between 160 and 170, probably closer to 170."

(A spokesman for the petitioners said it was his understanding that the total number was near 450, but that some were repetitions.)

"The petition wasn't specifically directed," Martin said. "Two of the complaints were directed toward the way in which Brown and Briller were administering the programs. Two were directed against the programs themselves."

Martin, who said he does not "spend my time" at the CSB facilities at 208 Seneca Street, stated that of the signers, "only about 30" use the facilities.

"There are more than 2,000 blind persons in the area," he said, "so we have to look at this in its proper perspective."

Martin was vague also on the salaries paid the two top CSB executives, saying: "I think Brown is in the $12,000 and Briller in the $10,000 range.

Briller said the petitions were "unfortunate."

"There are a number of things we're trying to make clear to the people. In talking to them we're trying to find out what objections they have.

"We feel we're achieving some important aims."

Told that one blind man had accused him of "having no sympathy for the blind," Briller said he couldn't understand the charge.

"I know some people have said that, and I feel sorry I'm accused of it. I have been working with the blind for several years. I have a number of blind friends.

"I hope I have an opportunity to show that this is a misunderstanding."

One of the petition signers claimed he was told to "get out and stay out" of the CSB. Asked if he delivered such an ultimatum, Briller said: "That's an executive decision, one that would be made by our executive director."

Asked again if he had ever delivered such a message to a blind person, Briller admitted he had in one case.

"There was one person we had to ask not to come in at this time," he said, "because of some problem, some problem the individual was causing in the building.

"I really can't tell you the nature of the thing, we would have to keep that confidential."

Briller allowed that, "Naturally, we wouldn't do a thing like that lightly."

The UGN, supporting agency for the CSB, has not received the petitions, nor, according to executive director Robert Whitaker, any complaints.

The dissident blind have complaints, however, and they hope to see some measures taken, they say. One dissident summed up his feelings when he said: "There's no charity in that place."

MONTANA ABOLISHES LIEN LAW

On February 21 Governor Babcock signed into law the MAB-sponsored lien repeal bill just passed by both houses of the Legislature. The new law prohibits the placing of liens on the property of recipients of Aid to the Needy Blind. The bill met with little or no opposition in either House; and State Legislative Chairman, Keith Denton, was not even summoned to Helena to testify in its behalf. The repeal of this lien law, enacted in 1953, has long been a legislative goal of the Montana Association for the Blind. The Montana Association is told that by 1970 federal law will make the abolition of lien laws mandatory in all states; so perhaps the lack of opposition in the Montana Legislature reflects the growing spirit of acquiescence to the inevitable.

NYC WELFARE DEPARTMENT TRIES HONOR SYSTEM

(From the New York Post)

The Welfare Department started its abbreviated application program in two centers recently, replacing lengthy application and investigation procedures with a declaration honor system.

For the first time in the nation'a history of public welfare, applicants were able to receive funds on the basis of statements and proof they present to the department on their initial visit.

The system, started as a year-long experiment, went into effect at the East End Center, 309 E. 108th Street and the Clinton Center, 103 Clinton Street, Brooklyn.

Under the declaration system, the applicants will fill out a form declaring they need aid, supplying evidence of their income or lack of it, and listing their expenses. They are asked to show evidence such as rent receipts or statements.

The application filled out, the applicant is then given a single interview. Under standard procedure, an applicant must be interviewed twice and a caseworker must visit his home before he is allowed aid.

The Welfare Department and a research team from City University will closely watch the system for the next year.

To discourage potential frauds, every tenth application will be pulled and an exhaustive check similar to the routine welfare investigation will be made.

A person convicted of violating welfare laws can get up to one year in prison. But a Welfare Department spokesman pointed out that such cases are rare--in 1966 only 78 persons of the more than 630,000 welfare recipients in New York were convicted of fraud. The fraud aspect will be one of the points researchers will match during the coming year. If the program proves itself, it will be expanded to every center in the city.

SOFKA ATTACKS DISABLED CENSUS

"I am very much irritated by the reintroduction of Representative James C. Cleveland's bill to snoop into the personal lives of the physically handicapped during the 1970 census," writes Mike Sofka. "This is certainly an unnecessary invasion of our privacy, and I intend to tell Congressman Cleveland so.

"Certainly those persons who want and need agency services know how to go after them, and it isn't the lack of final figures as to the number of handicapped in this country that is the cause of boondoggling and general inefficiency.

"I strongly feel that those of us who are out on our own and no longer are or ever have been under constant agency surveillance deserve the same rights to privacy as other independent citizens. We certainly should not be treated like some sort of criminal element because we happen to be handicapped. I also hope that the NFB will take a similar stand against this legislation.

"I believe that the bureaucracy that purports to be serving the handicapped has turned the corner from serving us to using us primarily for their own selfish gains," Sofka concludes.

"We should pull out all stops in exposing such efforts. What say you"?

CONGRESS CONSIDERS OMBUDSMAN BILL

"A combination red-tape cutter, complaint bureau, and citizen's defender against bureaucracy" in the person of an Administrative Ombudsman is envisioned by Missouri Senator Edward V. Long, who recently introduced legislation to create such a position.

The Ombudsman and his staff would "investigate administrative acts, including omissions, decisions, recommendations, and practices and procedures of the Internal Revenue Service, the Social Security Administration, the Veterans Administration, and the Bureau of Prisons," said Senator Long, Chairman of the Senate Judiciary Subcommittee on Administrative Practice and Procedure. He noted that the great bulk of citizens' complaints arose with these agencies, but that others could also be added to the bill.

The bill is of special importance to the blind because it opens a citizen's channel to the Social Security Administration, the agency which oversees many welfare and rehabilitation programs.

Long said the Ombudsmen in Scandinavia and New Zealand as well as their proliferating American counterparts "find that a great majority of complaints, although submitted in good faith, are unfounded." Thus, he said, the Ombudsman would not only find faults and correct wrongs, but he would also absolve civil servants and government agencies from wrongful charges and unfair accusations.

The bill provides for appointment by the President of a lawyer in high standing as Ombudsman to call hearings, subpoena witnesses, compel agencies to produce documents, and make public his views and findings. The Ombudsman would investigate complaints and then report back to the complainant and to the erring agency official, to Congress, and to the Administrative Conference.

"The Administrative Ombudsman," said Senator Long, "would have broad investigatory powers, but limited enforcement powers. He will be an arm of the Congress, similar to the General Accounting Office which primarily handles fiscal matters."

But, the Missouri Senator warned, "he will not be a panacea for all the ills of government."

CAN COURTS OVERSEE MEDICAL TREATMENT?
(Rouse Case Reexamined)

[Editor's note: This story shows the emerging role of the court in the control of some of the aspects of an aid and services program. The blind must watch this development with a view toward relevance to their own programs. It especially encourages much greater resort to the courts by blind recipients dissatisfied with the treatment they are getting.]

Winding through the federal courts for the past two years is the case of Charles Rouse, confined under maximum security at St. Elizabeth's Hospital for 4-1/2 years after being found criminally insane in a weapons case.

Rouse sought release under a landmark U.S. Court of Appeals decision last fall, in which Chief Judge David Bazelon, a pioneer in mental health reform, in writing for the majority stated that courts had the power to evaluate treatment and to release persons not afforded adequate medical care, and returned the case to the district court for a factfinding.

District Court Judge Alexander Holtzoff ruled in January that Rouse's attorney, Charles Halpern, of the Washington firm of Arnold & Porter, had failed to show Rouse's treatment inadequate. Holtzoff, a long-time supporter of St. Elizabeth's' practices, accepted hospital psychiatric testimony of Rouse's behavior as sociopathic, and dismissed the writ, commenting: "I can't mandamus the hospital or provide better treatment. How can I enforce it? I can't mandamus Congress to provide more money either."

Holtzoff, in resisting the trend set by the Court of Appeals that courts make a new departure by inquiring into the administration of mental hospitals, was airing, in the opinion of some observers, not only his own philosophy but that of St. Elizabeth's' psychiatrists eager to avoid further court surveillance. Halpern, who, with the aid of a grant from the Gralnick Foundation in Port Chester, New York, which has financed numerous studies of mental illness and treatment, brought in out-of-town psychiatrists to testify on Rouse's sanity and adequacy of treatment, was chastized by Holtzoff as trying to make the courtroom a forum for attacking St. Elizabeth's and attempting to turn the case into a publicity stunt. Forbidden by the Judge to talk with the press, Halpern will take the case back to the Court of Appeals.

In accepting St. Elizabeth's' testimony of Rouse as sociopathic,

Holtzoff accepted as a symptom of Rouse's alleged illness his withdrawal from group therapy, and urged in his opinion that Rouse accept this form of treatment. Not only does Rouse raise the issue of the responsibility of judges to determine from competing psychiatric testimony adequacy of treatment--it raises the question of the effectiveness of psychiatric treatment when a patient resists it, and whether a patient so refusing treatment can be detained in an institution and forced to accept it.

In comment on this landmark case in the development of forensic psychiatry, The New Republic suggests that Rouse's withdrawal from group therapy might well "be a sign that a person is getting well when he rebels against the institution which seems to him totalitarian."

In an article entitled "Who's Fit To Be Free," the magazine states:

> The Rouse case illustrates how a mental hospital can become a place where people with unorthodox behavior can be confined for indefinite periods of time. The maximum sentence for carrying a pistol is one year. Now, after four and a half years in a mental hospital, the psychiatrists claim and a judge has twice found Rouse is too dangerous to let out. Although no one has actually said that Rouse is violent, the judge and psychiatrists apparently fear that if released Rouse might get a pistol, and then he might do something dreadful with it. The same could be said for any number of people wandering around Washington with loaded pistols every day.

THE BLIND IN MODERN SOCIETY

By Bruno Schultz

This article from The New Beacon is based on a lecture given by Professor Schultz at the conference of the Deutscher Blindenverband held in Berlin in November 1965, a conference attended by some 350 participants and opened by the mayor of West Berlin, Willy Brandt. The lecture was first published in Soziale Arbeit, No. 1, Berlin, 1966. The translation is by Hans Cohn. Professor Schultz was born in Berlin in 1894.

He lost his sight as a result of an accident during his last years at school. He went on to study law and political science at the universities of Berlin and Breslau, in 1919 taking a doctorate in political economy. He taught for many years at the Dresden Technical High School before going to the Berlin Free University as lecturer in 1950, subsequently becoming professor of economic history there in 1955. He has been active in blind welfare since 1925.

I have no intention of getting involved in a definition of "society." I would merely quote St. Augustine, when he said in his Confessions (XI/14): "What then is time? If no one asks me, I know. But if I want to answer someone's question about it, I do not know." Let us therefore use the term "society," for simplicity's sake, as we do in everyday speech.

Society is, as is self-evident, subject to constant change. Here we presuppose Central and West European, in particular German, and even more narrowly, West German society. We can say, surveying the last few centuries, that, evolving from feudal society, through liberal, typically bourgeois society, it has today arrived at what we like to term "mass society," but which is better called "pluralistic society," and which can also be designated "the affluent society" or "the society of social control." Our purpose is to describe the position of the blind in this society.

When we speak here of the blind, we must point out that the blind person does not exist, just as there is no such thing as the worker, the merchant, the academic, the criminal.

But first some figures. In the German Federal Republic there are approximately 60,000 blind, of whom about 6,500 are war-blind. These war-blind of two world wars rightly enjoy special privileges. That, as has been aptly remarked, they may be considered the avant-garde of blind politics, in some aspects as pioneers for the civil blind, as for instance in the matter of suitability for employment, has been and is gratefully acknowledged by the latter and needs no further explanation. Of considerable importance is the age grouping of the blind. By far the majority, 71 per cent, with a loss of sight after the age of 50, belong to the aged blind; 1.5 per cent are below the age of six; 3 per cent are in schools or institutions of further education; 24.5 per cent are in active employment. The number of those blind from birth is happily declining. The causes of blindness have been successfully combated. Still more could be done in this direction by more information and periodic and repeated eye tests, not only at school but right up to the forties and fifties.

At the centre of the measures taken by society stand the blind

capable of and active in employment. Their share of the total is relatively small. This poses the question whether more attention should not be given to the aged blind than has been up to now. The secret of these 60,000 people is that they share the disability of blindness. This in no way means that they can all be tarred with the same brush. The blind, too, even in the mass society of today, are to a large extent individuals. The blind man is like every other, he simply lacks the most important sense. Just like the sighted, the blind differ in respect of their physical and mental powers and characteristics, their desires and aspirations, their view of life and, given the chance, choice of job. They can be optimists or pessimists. They differ in the way in which they come to grips with their fate. One cannot, therefore, speak of a uniform behaviour of the blind, for they are no homogeneous mass. It has been truly said that "blindness changes only, if at all, the attitude of the individual in relation to what has been put in his cradle." And yet they are stamped with uniformity by the sighted as meeting "the blind norm." For society the blind child is the same as the aged blind and the working blind--just blind. But one can and must not generalise here. There is already a difference in that one has been born blind or blinded in infancy, has, therefore, never seen the world around him, while another has lost his sight later, in which case a further distinction must be made as to whether during school education, in professional life or in old age. It is often forgotten, incidentally, that there are blind women and men: in respect of the former, problems have arisen which do not exist for the latter. This has its effect on their position in society.

Only a relatively small percentage of the blind achieve a conscious integration into society and a conscious attitude towards it. A considerable part of the aged blind as well as the blind children are, above all, objects in society, though not merely objects of charity as in former days. They, like all the blind, do not, as once upon a time, exist outside society, but are integrated into it. Their position in society is today governed by its nature and structure. We have pointed out that modern society can be described as "the society of social control." To its make-up belongs an aspiration towards social security as well as its partial realisation. In this respect the position of this group of the blind in society has fundamentally changed. Pauper care has been replaced by welfare, and this as a socio-political concept with the aim of freeing the blind as much as possible from charity in the narrow sense of the word.

Concerning the blind, it is not possible to speak of the "good old days." The transformation in the position of the blind in society is certainly quite recent. Corresponding to its changed order, its cultural and social concepts, society has radically altered its attitude to the blind. We can say without exaggeration that at least up to the beginning of our

century the blind were seldom at the centre of things, they were pitied, regarded with embarrassment and not understood. (I should like to point to an observation of my own youth. In our street I occasionally met a man in dark glasses who was led or felt his way with difficulty by stick. I always made a wide sweep around him.) Certainly, institutions for the blind had existed for a long time, as well as training for selected occupations, particularly the traditional occupations of the blind. But, despite all enlightenment, the view was still widespread that the blind could not make useful citizens and well-adjusted members of society, that, with few exceptions, they could not earn their own keep. They were thought of as objects of charity. Integration into society had not yet been attempted.

The First, as afterwards the Second, World War greatly contributed to a transformation. Thus one saw and sees everywhere more or less seriously disabled, handicapped people. The blind have become part of these. A considerable part of the population has got used to seeing them. Whether it is correct to maintain that they are no longer "stigmatised" I shall discuss at the end. One can draw a parallel with the motives of the social reformers during the second half of the 19th century. Ethical, social and political not less than economic consideration led to measures in the realm of social politics. They wanted to integrate the workers into society and enable them to participate in the cultural heritage of the people.

Though one cannot equate the blind with the workers, numerically-speaking, the same forces contributed to a change in the position of the blind. Briefly enumerated, these changes included schooling for blind children (which became compulsory only during our century), disappearance of illiteracy, the founding of braille and sound libraries (these being of the greatest significance because only a quarter of blind people can read braille). Further advances are attributable to the use by the blind of tape recorders. Then there are concessions in the use of public transport, from the post office, on the sale of magnetic tape, as well as the granting of handicap allowances. This has enabled the blind to share in many cultural activities. All this has contributed to their social integration, the creation of homes and the provision of cultural entertainment for their inmates playing no small part in this.

No less significant is the progress made in the vocational integration of the blind. All blind children have a right to education, gifted children to higher education; those blinded in adult life have the possibility of staying in their old jobs or the right of retraining. Here, too, the war-blind of the First World War were pioneers. New avenues in the choice of vocation were sought. The traditional occupations of the blind began to be reserved for those not fully efficient. The progress of industrialisation has on the one hand made the old occupations of the blind

unprofitable, and on the other created a host of new jobs through continued division of labour (in particular, specialisation), some of which are open to the blind. In this connection it is important to note that the retraining of the blind is not considered a superfluous luxury, but a social and economic necessity for the community. The number of blind people in employment in the Federal Republic is given as 12,000, of whom 30 per cent are in industry, 20 per cent in occupations for the blind, 20 per cent office and civil service employees, and the remaining 20 per cent self-employed, teachers, concert artists, etc. It is pointed out today that, with very few exceptions, all able and willing to work are integrated into the productive effort, that no blind person need be without training because means are not available. He also has the right to any technical aid, necessary for the exercise of his job. In almost every case, technical aids are necessary as determined by the demands of the industry. The greater part of the blind receive these aids from public money. Thus modern society looks after the maintenance or restoration of employment, training and further education, as well as any demands at the place of work. In the Federal Republic we have a Protection of the Seriously-handicapped Act, which guarantees the blind a place of work and a permanent job as well as additional leave. In addition, there are many concessions for the working blind, eg an income-tax-free allowance, a handicap allowance designed to offset the costs incurred through blindness, but in particular to level out an inequality in productivity.

Thus the change in the attitude of society towards the blind, together with new techniques, has contributed to give the blind the chance of demonstrating their potentialities and of participating in the creation of the social product.

The changed attitude emanating from society could hardly have been successful if it had not been accompanied by the emancipation of the blind themselves.

At about the turn of the century, the blind began to be conscious of their own worth and to form themselves into federations. They wanted to be the object of charity no longer, but to take their fate largely into their own hands. These federations wanted to mitigate the lot of their members, ameliorate their economic position, achieve their integration into society and employment. Among other things, they published magazines in which their vocational, social and cultural views were represented. They were in fact organisations of self-help in which aid was to be given to the blind by the blind. I do not want to go further into the details of these organisations here, or to discuss whether their structure is suitable to modern conditions, but I must stress that they have played a big part in transforming the position of the blind in society, not least by the constant

broadening of their tasks. This is proved by the fact that these organisations or their representatives are consulted by ministries and parliaments when social legislation to meet their demands is contemplated. That such collaboration is possible is telling proof of the change in the position of the blind in society during the last few decades.

These organisations have further pioneered investigations into new avenues of employment and measures of rehabilitation.

If all this presents a picture of the emancipated blind as equivalent members of human society, a fellow citizen who no longer is considered as inferior, this is to be attributed to the transformation of society into one of social control, the affluent society or, as it is often called today, the surplus society. Let me say in passing that the vocational placement of the blind is hardly a problem today, but will fundamental change in the means of production affect them? Automation is increasing the "helmsman" who from his post directs many machines which are no longer attended by men needs his eyes for the control of lamps, curves, etc. Could that lead to a retrogression in the employability of the blind?

But modern society has yet another side to it. We speak of a pluralistic society, and here, I think, the position of the blind is not quite so favourable.

Modern society is characterised by plurality, diversity and dynamism, but this also implies complexity. In this society life is harder than before. All of us, including the blind, belong today to a variety of social structures, which, in contrast to the past, are much more loosely connected with one another, but are in competition with one another with regard to the demands on the individual. This makes it necessary to take decisions to an increasing extent, to assume responsibility. A simple, constantly encountered, fact will make this clear: as long as a man has an income which merely enables him to satisfy his daily needs he is not plagued with the problems of choice. With rising income, greater freedom of consumer choice is afforded him. This also applies to other aspects of our life today. A preparedness to concern oneself with the new, and a capacity to unfetter oneself rapidly if necessary from the old, these are necessary prerequisites in keeping pace with the changing times. The changes in social positions and situations with which we are confronted demand of the individual a high degree of mental alertness. Thus the pluralism and diversity of our society demand of the individual the capacity to live consciously and to be constantly on the alert. They postulate a certain type of individual, namely, one who is at any time able to inform himself, to weigh up alternatives and to make decisions. Thus great demands are placed on him with regard to economic and social circumstances

which can no longer be surveyed, but nevertheless affect him closely. Education is necessary to find the right way in modern society. All these are problems which are advancing on the blind, may already have reached them, and which certainly do not make his position in society today any easier. There is another factor: increasing mobility, a characteristic of our times. Even for the sighted, a change of environment demands a coming to grips with new circumstances in every case. That this is true to an even greater degree in the case of the blind requires no further explanation.

In what has gone before, I have shown that the economic and social position of the blind has fundamentally changed in the last five decades. Many of them are creative members of society, equivalent, responsible personalities, participating in the life of society. They are anxious not only to receive but also to give. Just because they are, on account of their disability, continually forced to receive, they also want to give. This giving allows them to forget their blindness up to a certain point. Thus the blind are integrated into society, they no longer stand apart. Grateful as they may be for what society, the state, technique and science have enabled them to do, yet they cannot deny that a complete integration has not been achieved. In other words, the gulf still exists between the blind and society and will, I believe, always exist, though the tension may lessen and the gulf narrow. Explanations of this offer themselves on both sides.

Let us first consider the attitude of the blind. We have demonstrated the transformation of their position in society. Much has been achieved. The striving of the blind for equality is understandable. They are anxious not to be conspicuous, though they know that they are constantly under special observation. Therefore the blind will behave with particular care in their daily professional lives and social intercourse, they are under constant strain to adapt themselves to their environment. They want to join in and be up to the mark. To be blind is a daily hazard.

However, the blind cannot jump over their own shadows: the fact of their blindness remains as well as its consequences despite all achievements and society's sympathetic understanding. None of the technical aids known to us can replace the human eye. Despite a burning desire, the blind are never inconspicuous as others. This reinforces the feeling of inferiority: they must renounce much. Blindness to a high degree means lack of freedom. This consciousness leads to psychological burdens which cannot be taken from them. I believe the blind demonstrate two extreme reactions in their relationship towards society. Some try to overcompensate their disability by negating it and behave as if they could see. The effect on society is, in general, not what they intend. One could say that

the sighted notice the intention and are put off by it. In the end even this category of the blind realises that complete integration is beyond reach. The other extreme is, if I may call it that, the 'mimosa' type. He is conscious of his disability on every occasion, which leads to considerable inferiority complexes. The fact of blindness is painful to him, he would like, as it were, to apologise for it. Even if he is strongly extroverted, every contact with society is an effort. He feels himself to be constantly observed and pitied. He flinches at the word "blind." He is hypersensitive and easily offended. Between these two extremes stands the "average blind." He knows his limitations and, as much as they allow him, tries to adapt himself. For him, blindness is a fate which one has to suffer but has to learn to accept. This does not mean that there are not occasionally times in his life when he feels himself at odds with his fate, nor that he may sometimes display traces of the mimosa type. With him, too, strains occasionally arise which are unknown to the sighted. For example, the sighted have no trouble in getting into a rowing boat. The blind man is under considerable strain: he needs concentration and help and is glad when he has reached the right place in the boat. That here, too, special forces are at work requires no particular mention.

Some personal experiences may be added. For over forty years, I have stepped many times each term on to a platform to deliver my lectures, yet, even today, I am every time under a certain pressure: shall I, despite my guide, not miss a step, knock into something? There is no problem here for the sighted, but for the blind it means a psychological strain and additional nervous energy. I have for some forty years been active in blind welfare and can sometimes not avoid the reactions of the mimosa type. When I read in the Berlin press the first announcement of this congress, with the mention that a blind professor would give one of the two addresses, I was annoyed. I asked myself, does this adjective have to be added? Discussing this with the person responsible for the press release, I discovered that I could not refute the arguments in favour of his choice of text.

These observations show that objective and subjective motives do, after all, prevent complete integration. To these must be added the false assessments and exaggerated expectations of the blind. An instance of wrong assessment is a miscalculation of the time a sighted person requires to pass something or to perform an errand. The blind person becomes impatient, he finds it difficult to wait; he might, he thinks, already have done this or that in the meantime. In this connection, it has been rightly observed that "if people show too much consideration for this kind of impatience, we will, if we do not observe ourselves very closely, very critically, develop egotistical tendencies, which can

deteriorate into eccentricity." Exaggerated expectations are particularly encountered in professional life. I have mentioned before that a number of vocations in which the blind can be engaged has steadily increased. If they are told by those in authority that specially suitable occupations are constantly being explored for them, that with physical and mental health and intellectual capacity blind persons may choose almost any vocation that corresponds to their talents and inclinations, are false hopes not thereby encouraged? There is, after all, a large number of occupations in which the blind cannot engage. While it is true that the range of occupations open to the sighted individual is limited by circumstances, there is, nevertheless, a difference. The blind individual's choice of occupation is not merely one of aptitude determined by his or her talents and abilities, but whether the occupation is suitable for the blind. This difference occasionally weighs down a blind individual, but also contributes to the fact that objectively and subjectively complete integration is not possible.

Let us now turn to society. It cannot be denied that here, too, there are many misconceptions, that understanding for the position of the blind is greatly lacking. In many cases there is still much embarrassment in dealing with the blind, and many people are apprehensive towards them. On the other hand, there are also cases where the blind person and his capabilities are greatly overestimated. Both attitudes are wrong as well as unhelpful.

And now, some examples of why, through the attitudes of society, a complete integration has not taken place. I have already mentioned what has been achieved in the realm of a blind person's work potential. I may add that, generally speaking--like his sighted colleague--the blind employee is placed in a job which will develop his potential to the fullest. How is he served in the matter of promotion? More than once it has happened that, in industry as well as administration, a chance of promotion has not existed for a blind individual. The personnel or works manager or civil service chief has accustomed himself to the collaboration of his blind subordinate, but does not consider him suitable to hold down another or more responsible position, and when a higher post falls vacant the blind employee is often passed over. The superior may possibly argue that the capacity of the sighted is greater than that of the blind, that he is not completely satisfied with the results of the blind employee in his present post, but who is to control this? The effect on the blind individual will, in general, be particularly profound, since he often displays a rather special attitude to his work and is pressing for promotion. In many, if not all, cases the passing-over of the blind proves that complete integration has not taken place, that different yardsticks of measurement are in use.

Another example. It is a common experience that in negotiations the other side does not address the blind individual but his guide. Up to a point this is understandable, for the sighted person often misses the reaction to what he has been saying in the blind person's eyes or face. And yet the blind person is left with the impression that he is not treated as fully responsible. This lack of contact through the eyes is a constant impediment, misleading the blind into faulty judgments which the sighted run far less risk in incurring. Does society, perhaps, not after all overestimate the visual by taking the lack of what is unquestionably the most important sense as a criterion of personality? This, in my opinion, is also the reason for the absence of a complete understanding of the blind. Society's attitude towards them can be formulated in a paraphrase from the Heidelberg philosopher Windelband: "The sum of the existence of the blind person divided by a reason never quite comes out without a remainder; rather in reality and above all in his personal existence, something impenetrable is left over. That is the frontier at which critical, comprehending reason must stop." When all is said and done, the blind person remains a "stigmatised individual."

Having read my opinions one could believe me to be a pessimist. This would not be true. I know that one can achieve success only by approaching the problems of the blind as an optimist. To be sure, expectation and fulfilment hardly ever balance one another. I am thinking of Schiller's couplet:

> With a thousand masts the youth set sail,
> Silent, in one salvaged vessel, the old man
> returns to harbour.

That this harbour exists for the blind, despite all tensions and gulfs, is due to modern society and the efforts of the organisations for self-help of the blind.

RELATIVES' RESPONSIBILITY: A PROBLEM IN SOCIAL POLICY

By Winifred Bell

Regulations governing the responsibility of family members for each other's support, their history and background, the provisions now

in effect and their inequity, and the arguments for and against the continuance of these regulations are presented. While there is little question that public funds are conserved when family members are liable for support and that if the public accepted greater responsibility in this area more generous public financing would be necessary, the author asks whether families already jeopardized by problems such as poverty and mental illness should not be the last rather than the first to pay.

Every state in the nation has laws or regulations that define the responsibility of family members for each other's support. However, the provisions differ in important ways. While some regulations impose a continuing duty to support under all circumstances, others will apply only if a family member seeks public aid or services. In turn, public dependency may trigger support obligations if one type of public expenditure is involved, but not for others. Furthermore, the size of the burden imposed on the family system differs from state to state, in different locations within a state, and from one institutional setting to another. Sometimes it depends on the age of the individual seeking public services and frequently on whether he lives with or apart from his relatives. The burden is unpredictable under certain types of administrative arrangements, and under others it pursues the person beyond the grave. It can bear a predictable relationship to current income or for years accrue as a debt to the state to be collected from future earnings or when estates are settled. The attitudes toward nonsupport vary from a nod of acquiescence to sanctions that include criminal conviction.

While the idea that husbands have a moral duty to support their wives and parents to support their children is of ancient vintage, relatives' liability provisions per se stem from the Elizabethan Poor Laws, which were enacted at a time when England could not hope to eradicate poverty. It is not surprising that as Parliament took the enlightened step of defining the public's responsibility for the relief of poverty, it also cautiously clarified it as a residual function that existed only in the place of settlement, for select individuals who were clearly unable to work, and only after it was determined that the family was incapable of discharging its responsibility for support:

> Parents, grandparents and children of every poor old blind lame and impotent person not able to work, being of sufficient ability [are responsible for their support] at the rate determined by the justice of peace and shall forfeit 20 shillings for every month which they fail.

The "seminal source" of the Poor Law, tenBroek tersely notes in his essays on the dual system of family law, "was the need to curtail public

expenditures and to conserve public funds. When the economy was underdeveloped, poverty was endemic, and economic and social pressures led to strong sanctions against population movement, relatives' liability was an effective device for forcing the kinship system of the poor to continue to bear the major brunt of poverty despite public avowal of a higher social principle. More than 350 years later, under different social and economic conditions, liability provisions still linger among other vestiges of the old Poor Laws. They are found in the states' general statutes, in public welfare and institutional codes, in administrative regulations and rules. When there is no legal or administrative base, they may yet color the eligibility determination practices of public agencies.

Typically, they require that the income of relatives be viewed as a resource that is available to members of the family, especially if without it they would become dependent on public funds. The family may be required to bear all or part of the cost and their ability to do so is rarely a matter of their personal judgment. If they are deemed capable of providing full support at the standard set by the state, irrespective of whether they do so, federal and sometimes state policies permit public assistance to be denied. Since the necessary investigations are usually time consuming and the need for financial aid or services may be urgent, public agencies often extend help promptly, but with the understanding that they may recover the cost at a later date. To protect its interests the state may take a lien against the recipient's property, or it may be content to sue to recover the public investment from financially able but unwilling relatives at a later date.

The situation differs somewhat when the safety and protection of the community are at stake. For instance, if confinement and care are essential for a mentally ill person, the urgency of hospitalization generally takes precedence over immediate cost considerations. So care is not denied, although eventually, in most states, liable relatives may be held responsible for part of the cost.

When these provisions are viewed superficially or from afar, it is often assumed that impoverished elders have been shunted aside by ungrateful, well-to-do children or that poor youngsters have been abandoned by irresponsible, high-living fathers. That these visions occasionally are accurate is probably true. However, in most cases courts and agencies responsible for administering the laws find themselves exacting money from those who have little, to give to others who have less. Under these circumstances, it is inevitable that lawyers and social welfare leaders are questioning whether poverty can be lessened substantially as long as such provisions exist.

Proponents of the provisions consider it right and proper that when individuals or families use public agencies their relatives should bear a special share of the cost over and above their contribution in taxes. They believe that the family system, not the community, is the primary beneficiary. When institutional care is required, they point out, families should not be deprived of the normal privilege or freed from the customary duty of daily maintenance expenses, whatever other financial relief the public offers. It is held that bearing these continuing costs symbolizes affection and concern and is one way that the family may assist in the individual's return to good health, self-support, or more independent, socially acceptable behavior, as the case may be. In other words, family support, either compulsory or voluntary, has been rationalized as good therapy for all concerned. A first cousin to this school of thought is one that views with alarm any move away from familial liability because of the assumed catastrophic consequence for family cohesion and individual morality.

tenBroek has become one of the primary spokesmen for the opposition. He distinguishes between two streams of law--the "family law of the poor" and the "family law of the rest of the community." The former, he holds, has been more successful in spreading poverty than in sharing wealth or affection. When relatives' liability provisions are examined the reason is not hard to identify. It becomes apparent that under most circumstances liability for support is limited to the nuclear family system, but the moment public aid or certain public services are required, the extended family system suddenly becomes the frame of reference. Thus, in most states, for self-supporting families who avoid public agencies, husbands are responsible for their wives and parents for their minor legitimate children up to ages that vary from 10 to 21 years. In some states both parents are responsible for the support of minor illegitimate children. But if someone needs public aid, the list of liable relatives increases dramatically. If the person in question is a child, the duration of parental liability tends to increase and it may persist for his lifetime. If husbands are needy and unable to support themselves, wives become liable. In 1960 children were responsible for the support of needy parents in thirty-seven jurisdictions. In nine, grandparents were responsible for needy grandchildren and grandchildren for needy grandparents. In four jurisdictions liability extended even to siblings if one became needful of public aid. Since most families of the poor are also poor, this makes for the crucial inequity in laws that impose the most extensive liability for mutual support on families at the point that public aid is requested.

Some classes of the poor, though, are distinctly worse off than others. This is nowhere better illustrated than in AFDC, with its all-too-frequent "man-in-the-home" regulations. The rules refer to the

nonrelative male friend of AFDC mothers. Whether the relationship is casual or continuing, it is always extra-legal. Her children are not legally his. He may not wish to marry her or be free to do so. He may be supporting another family or have no income to support anyone. Whatever the arrangement may be, he is not liable under the general statutes for the support of her or her children. Yet according to welfare rules in some states, his presence in the mother's life means that her children are not "deprived of parental support" and hence she and her children fail to qualify for public aid. In California, if an investigator finds a "man in the home"--or a "stepfather," to use the state's euphemism--the AFDC mother can be charged with grand larceny for her failure to report his income as a resource that might have prevented public dependency. The so-called stepfather, in other words, is simply a friend, but when he befriends a needy mother he in effect becomes responsible for her support.

By contrast, families of needy disabled, blind, or aged adults are treated with relative gentleness. It is not just that responsibility for support remains within the family rather than extending to nonrelatives, but even the list of liable relatives tends to be shorter in some states, probably as a result of the special interest lobbies. The range of relatives is still further constricted in Title XIX of the Social Security Act (part of the recent Medicare package) at least insofar as the determination of medical indigency is concerned. Thus, if only medical care costs are involved, the states must limit liability to spouses and parents of minor or certain disabled adult children.

Liability provisions appear to be somewhat less burdensome on the family system in other institutional settings. This is not necessarily owing to a different scope of liability, but rather to the fact that some states levy no charge against the patient or his relatives for certain types of public care. For example, in 1960 ten states did not charge for institutional care of the mentally retarded, although parents could contribute if they wished, which was not always possible for nonliable relatives. Only four states reported any charge for care in schools for the deaf and blind, and only seventeen levied charges for care of the tubercular. Most states that charge for the mentally retarded also charge for mental hospital care.

The charges as well as the administrative arrangements for locating relatives, determining ability to pay, and making collections vary within and between institutional settings and states. In general, judges and elected officials are chary of pressing support charges, whether they involve civil or criminal proceedings. So the favored alternative for most public agencies is to use all possible persuasion, short of legal action, to obtain "voluntary" contributions from relatives. For those who live in the same jurisdiction, the implied or actual threat of a suit can be exceedingly

convincing, and often public agencies make nothing but token gestures toward more distant relatives, even though theirs may be the greater moral responsibility. In these circumstances the single most vulnerable relative is the one sufficiently concerned to accompany the needy or sick family member to the admitting desk of the public agency.

The inequity of relatives' liability provisions was brought dramatically to attention in a recent California case, which involved charges for a patient confined to a state institution. When this case finally reached the state Supreme Court, the court held that providing confinement and care for the mentally ill in state institutions was a proper and appropriate state function for which it should bear the entire cost. Selecting certain persons to share in the cost on the basis of family membership deprived them of equal protection of the laws, since family membership was an unreasonable classification to use in separating the liable from the non-liable. The state promptly appealed to the U.S. Supreme Court and it had the vigorous support of many other states. The National Association for Retarded Children and American Orthopsychiatric Association retained Kenneth Pye to prepare an amicus brief to support the state court's decision. In it, he blended the merging concern of lawyers, social workers, and relatives:

> The imposition of an unequal financial burden solely on the basis of family membership places an unjust economic burden on a few and may aggravate existing emotional strains upon the family and deprive well members...of economic and educational opportunities which could be enjoyed in the absence of the oppressive state action.

The case is still undecided; it has been referred back to the state for clarification. In the meantime, in another suit involving similar issues the California Appellate Court has refused to apply the Kirchner decision, and an appeal was denied by the state Supreme Court. However legal issues are presently resolved, the important fact is that a new principle of primary public responsibility for the relief of poverty has been enunciated in this country, which gives cause for hope that at least the relatives' liability aspects of the medieval poor laws may eventually adapt to modern conditions, goals, and values.

If the state has only a residual responsibility for the relief of poverty, there is little question that persons applying for public aid or care must expect some form of investigation of their ability to manage independently. In other words, the right to public aid is conditional on the willingness to permit infringement on the right to privacy. As

long as the family system is held liable for mutual support, it follows that relatives must also submit to an invasion of their privacy so that the applicant may exercise his right to public aid.

The means test was devised to establish the facts. Theoretically, it simply involves an investigation of resources and obligations sufficient to establish whether the family system or the public should pay the bill. However, after centuries of public resentment of the poor for making any claim on the public purse, the means test has been used as one device among many for discouraging applicants. Undoubtedly the manner in which questions are asked may offend more seriously than the questions themselves. But when the answers are forthcoming, a time-consuming process gets under way to verify everything from names, birthdate, and addresses to gas bills, charge accounts, and wages. This often involves a minute examination of official records and extensive interviewing of relevant "others," including ministers, neighbors, employers, banks, and so forth. In a climate in which neither the applicant nor his relatives are trusted even to know their own ages, the means test is an unwieldy drain on administering agencies and a potent weapon against the family system of the poor. There is little wonder that many resent it and that social workers often view it with horror.

When it exists within a context of relatives' liability for support, the means test becomes far more than an investigation of financial facts, however it is administered. From the applicant's viewpoint, it requires that the whole family becomes privy to his trouble. The issue of confidentiality in public assistance is generally assumed to arise primarily when overly zealous citizens try to obtain the names of dependent persons to humiliate or exploit them. Actually, it is quite conceivable that aged parents might not care at all what strangers learn about their economic plight but care a great deal about keeping it from their children and grandchildren. Or as one young mother receiving AFDC put it:

> I got lots of choices...I can tell the welfare investigator that my parents in Puerto Rico are dead, or tell her the truth and let my parents find out I never made it in the states.

The need to contact relatives has involved public agencies in complex efforts to locate them, including surveillance of homes and anonymous calls. It also delays essential financial assistance more than almost any other aspect of the means test. It dissuades unmarried mothers from applying for public aid and prenatal services at the very time when these could make the difference between a healthy or feeble-minded infant. It also places unmarried mothers who need financial help in a different

position from their more affluent sisters-in-trouble who can have their babies almost anonymously, put them up for adoption, and resume their lives without sharing the episode with the family unless they wish to do so.

From the liable relatives' viewpoint, the means test, as it has been administered for three centuries, invades privacy in other important ways. The right to keep intimate information to oneself or to share it as one wishes is one side of the coin. There is also the right to set private goals and allocate family resources accordingly. But the means test gives the administering agency--not the individual--the right to define the rules and thereby the goals. Some states and institutional systems are greedier than others, but in all situations limits tend to be set that most Americans would find abrasive. In public assistance, nine states set the "base sum"--the level above which contributions are expected from relatives--at or below the poverty level of $1,600 per person. In thirty other states it is only about one-third higher than this level. Both the Economic Opportunity Act and recent amendments to the Social Security Act require that public agencies permit some individuals to retain certain types of income for their own use, but these provisions do not help the majority of poor families.

For institutional care of the mentally retarded, which affects a wider population and hence a wider income span, relatives are permitted to retain a greater share of income for their own use. This may reflect the expectation that public care will be more prolonged. The burden on the family system varies considerably among the states and shows little if any relationship to the quality of care received. In 1960, in order to obtain some notion of what families were expected to pay and what share of income could be retained, Eagle asked state authorities to answer the following question:

> What is the monthly payment required from parents of an institutionalized mentally retarded child (no other children in the family) where the gross monthly income is $500?

The replies ranged from no charge in eleven states to $90.00 a month in Maryland and Texas. It depended on the patient's age in Connecticut, Iowa, Illinois, and Kentucky. In Nevada, where the ability to pay was determined by public welfare agencies, if parents wished to avoid the means test they could voluntarily pay a predetermined flat sum.

In recent years there have been efforts to cleanse the means test of its objectionable features. The Bureau of Family Services, which administers the public assistance grants-in-aid for the federal government,

periodically sends out letters to state public welfare departments to reaffirm its belief that most applicants can be trusted and that extensive, costly, and humiliating verification procedures are unnecessary. Recently the bureau ruled that night raids are out-of-bounds. In a few jurisdictions and programs, self-administered questionnaires or even simple affidavits are substituted for personal interviews. Nevertheless, as long as the American value system views public aid and services as intrinsically inferior to self-support and voluntary services and denigrates people for using the former, there is reason to doubt whether any form of eligibility determination will be free of the abuses that have plagued the means test in public assistance.

Apologists for relatives' liability laws often claim that they strengthen family bonds by leaving the basic social and economic functions of the family within its control and by encouraging acts of mutual generosity within the kinship system. To the extent that financial ability and natural ties of affection result in acts of mutual helpfulness, they can probably be credited with strengthening family relationships. It is not so clear that to compel support from reluctant or already financially harassed relatives will have this effect and, as Schorr points out, the liability laws--at least as they are administered in public assistance--compel but scarcely encourage relatives to help one another voluntarily. The reason for this anomaly is that a state sets a standard of need that it considers sufficient for the support of the needy person or family. Relatives' contributions are then deducted from the standard and the state pays the "deficiency." So the only party that ends up with more money is the state. To a lesser extent this is also true of payments families make for institutional care of the mentally retarded--in twenty-six states they go into the general fund. It is difficult to see how an increase in the general fund could strengthen family bonds. But in the seventeen states where such payments increase institutional accounts, they may benefit patients, which could, in turn, bring some comfort to their relatives.

In addition, the sanctions against nonsupport seem strangely at odds with the stated purpose of increasing family cohesion. To qualify for public aid applicants can be required to sue their legally liable relatives to obtain the support the agency deems their due; they can be denied public aid if they refuse to accept this alternative or they can receive aid or care with the understanding that the agency may sue to recover the public investment. Fathers who fail to support their families can be subjected to civil or criminal charges, extradited to stand trial in their former home state, and sentenced to jail if all else fails to impress them with their responsibility. Mothers applying for aid in behalf of young children can be turned away if they refuse to name the child's father and give his address or if they fail to take all possible legal steps to

obtain support from him. It is difficult to understand how provisions such as these can be viewed as promoting family solidarity. It is true that they may force families to share living arrangements in the hope of spreading scant cash further and thus avoiding public agencies. But enforced proximity is hardly the same as family cohesion, although at a distance they may seem to be the same. It is also possible that the liability laws and their sanctions provide a strong incentive to impose familial controls over irresponsible relatives. However, in this case the poor law approach is ambivalent: the greater the distance liable relatives put between themselves and the dependent family, the less likelihood there is that they will be forced to contribute toward its support. Even with reciprocal enforcement pacts among the states, the relative who flees has a good chance of dodging responsibility except when the most vigorous law enforcement efforts are used. So instead of strengthening families liability laws may have encouraged their dispersal. Even when relatives are nearby, honest, and conscientious, and volunteer to meet part or all of the cost, it seems likely that the greater financial strain and the sacrifices that may be involved might well increase intrafamilial tensions and the push toward separation.

There is little question that public funds are conserved by placing primary liability for support on the family system. This is probably due less to the success in extracting money from reluctant relatives than to the deterrent features of the law and the acceptance of its philosophy by generous relatives. At least, when the relatives' responsibility requirement is repealed, case loads tend to increase in public assistance.

There is also little reason to doubt that vigorous law enforcement increases collections. This was dramatically illustrated in Illinois in recent years when public concern about nonsupporting relatives increased. With the cooperation of the attorney general's office, public welfare departments succeeded in raising collections by an average of $140,000 monthly between 1963 and 1965. The largest gains were in the AFDC program, although the case loads decreased in those years. More recently, Champaign County, Ill., reported that vigorous efforts to track down absent fathers resulted in net savings, after administrative costs were taken into account, of $18,093 yearly. In Winnebago County administrative costs for five months amounted to $33,614, and the new support contributions were expected to bring in $100,174 in a year's time. Cook County reported the new nonsupport and paternity actions, arrearage orders and support orders in the thousands. It also sent 361 fathers to jail. The report claims that "in the process some have been restored to the traditional role of breadwinner and head of the family."

There is also no question that if the public ever accepted primary,

rather than residual, responsibility for the relief of poverty or the cost of vital community services, more generous public financing would become necessary. Fein estimated in 1954 that patients in public mental hospitals or their relatives paid about $53 million for the care received, over and above their share in taxes. When California protested its Supreme Court's decision in the Kirchner case, the state claimed that if relatives' liability laws were repealed, approximately $6.4 million would be lost annually in revenues from public institutional care alone.

How much revenue is lost and how much cost occasioned by continuing to burden the family system with primary liability cannot even be conjectured. Short of that knowledge, there are a few questions that need answers:

Is it sound social policy for an affluent nation, warring however feebly against poverty, to finance public aid and services in a way that deters people from using them?

Is it sound long-range financing to force families at the poverty level to pay special assessments for restorative services, over and above their taxes?

Is help reluctantly given and forcefully extracted good for the giver or recipient?

Should not families already jeopardized by poverty, mental illness, mental retardation, tuberculosis, and any number of other ills be the last, rather than the first, to pay twice?

COUNT-DOWN NEW MEXICO CONVENTION

By G. R. Bobeen

Final preparations for the eleventh annual convention of the New Mexico Federation of the Blind are under way. The convention will be hosted by Las Luminarias chapter on May 27 and 28 at the Hilton Hotel in Albuquerque.

Federationists will be treated to the greatest convention ever. There will be door prizes galore--watches, radios, tape recorders, to

name a few. General sessions will be highlighted by the appearance of Governor David F. Cargo, U. S. senators, and Archbishop James Peter Davis. Representatives from the Governor's Committee on Employment of the Physically Handicapped, eminent eye specialists, and spokesmen from the Office of Economic Opportunity, State Welfare Department, Lions Clubs, State Employment Security Commission, and many others will also be on hand. The principal address at the convention's Saturday evening banquet will be delivered by the Federation's own Kenneth Jernigan, Director of the Iowa Commission for the Blind.

Federationists throughout the state are making plans to attend what appears to be the biggest and best convention ever staged by the New Mexico affiliate.

JOHN NAGLE AT WORK IN WASHINGTON

The indefatigable John Nagle, who represents the NFB in Washington year-round, is at this season especially busy getting bills introduced, preparing testimony, and attending Congressional committee hearings.

In early February, Nagle submitted testimony to the House Committee on Government Operations, expressing NFB support for H.R. 599, which includes a provision known as the "waiver of single state agency requirement." This provision would make it possible in a state which has adopted a Title 16 Combined Plan of Aid to single out aid for the blind and administer it either on a separate basis or as part of a total program of services for the blind under a commission for the blind structure.

Nagle also appeared before the House Committee on Education and Labor on March 17 to express "vigorous and unequivocal" NFB support of H.R. 6230, which would strengthen, broaden, and improve federally financed educational programs for handicapped children. Specifically, the bill would establish regional resource centers, extend existing instructional media programs to all handicapped children, and seek to expand the number of persons entering the field of special education.

Nagle's next stop was the House Committee on Ways and Means, where on April 5 he presented NFB arguments for changes and improvements

in the Social Security, public assistance, and federal income tax programs and laws for the benefit of the blind and otherwise disabled persons. Although he conveyed NFB endorsement of H.R. 5710, the Administration bill described as "the Social Security Amendments of 1967," Nagle also offered several long-time NFB proposals as amendments to the pending measure, particularly stressing the need for the enactment of H.R. 3064, the Federation's disability insurance for the blind bill.

Specifically, the NFB spokesman called for increased payments across the board, widows' benefits to disabled widows under 62, liberalized disability insurance for the blind, early case-finding and treatment of handicapping conditions of children, and income tax relief for the physically handicapped.

The very next day, April 6, Nagle inserted an NFB statement calling for participation of the blind in the Armed Forces of the United States into the record of the public hearings on the Selective Service Act conducted by the Subcommittee on Employment, Manpower, and Poverty of the Senate Committee on Labor and Public Welfare.

On the same subject, Nagle appeared in person before the Senate Armed Services Committee on April 17 and said: "Full participation in the responsibilities of citizenship has a special and great importance to us, and military service and similar duties which Americans are called upon to perform for their community and nation, though they may be regarded as onerous and burdensome by others, are considered by us to be essential for our fulfillment as persons and as American citizens."

PIANO TECHNICIANS FINALIZE CONVENTION PLANS

By Stanley Oliver

Visually handicapped piano tuners will gather at the Detroit Statler Hilton Hotel on Sunday, July 9, the day prior to the July 10 opening of the 1967 national convention of the Piano Technicians Guild.

Blind tuners are asked to mention their attendance at the PTG convention when making reservations in order to receive the special room rates which are $8.50 single, $13.50 double, and $15.00 twin. Tuners are also requested to contact Ford Lefler, 15324 Ilena, Detroit,

in order to give the welcoming committee advance notice.

The afternoon session of Sunday, July 9 will feature talks by leading blind technicians and an address by Dr. Robert Thompson, former president of the American Association of Instructors for the Blind and currently superintendent of the Michigan School for the Blind. A technical session will follow.

Tuesday evening, July 11 will be devoted to a trip by blind technicians to the facilities of Leader Dogs for the Blind, outside of Detroit. The Detroit Lions Club will host the event, and interested persons should notify PTG and Lion member Fred Lefler.

Throughout the convention a Blind Drop-In Center will be open in a large thirteenth floor display room, offering hospitality coffee and a large exhibit featuring models of the new talking book machine and the long-awaited casette tape player as well as an extensive collection of special tools, aids and devices for the blind.

WASHINGTON BLIND GAIN LEGISLATIVE GROUND

By Wesley M. Osborne

The Fortieth Regular Session of the Washington State Legislature began January 9 and closed March 9. A number of bills dealing with public assistance were considered.

Three bills are of general interest to the blind. H.B. 175, Vocational Training and Services for the Blind, was adopted by the Legislature and signed by the Governor. This new provision of the law removes the word "need" as a requirement for vocational training and adds new sections which modernize and liberalize vocational training for the blind.

H.B. 374, White Cane Law, failed to come out of the House committees. We think that a main reason this bill was held in committee is the lack of letters from the blind and other interested persons to the committee chairman and other committee members. The failure of this bill to pass does not mean that the blind are without a White Cane Law, but it does mean that a blind person with a guide dog is not covered by the existing law while crossing the roadway and streets. It means a failure

to coordinate the White Cane and the Guide Dog laws, as well as the loss of other beneficial provisions.

H.B. 608, Residence Requirements, passed and was signed by the Governor. The adoption of this law completely removes from the books all residence requirements for the blind for the first time in Washington.

We extend our thanks and appreciation to the State Services for the Blind and the State Advisory Committee on affairs of the blind for their assistance and cooperation during this legislative term.

SEEING EYE OFFICIAL DEFENDS GUIDE DOGS

A counselor of blind students recently intimated that students using guide dogs were unable to function as independently as students without dogs. Taking strong exception to this intimation is George Werntz, Jr., who writes in the Seeing Eye Guide that the counselor's statement is "an irksome sophistry with which hundreds of Seeing Eye graduates would take exception."

He points out that many persons do not use guide dogs because they can see well enough without them or because they lack the physical and temperamental qualities essential in guide dog use. "Falling short of qualifications for dog guide training, however, one cannot automatically be declared more independent than one who qualifies and does use a dog," says Werntz.

"True independence is not a question of the mode of transportation or mobility we happen to favor. True independence is found in the spirit of an individual, in his attitudes, in what he expects of himself, and what he feels society expects of him.

"Those who use Seeing Eye dogs resoundingly affirm that--along with safer, more efficient, and faster mobility under less nervous tension--the most precious thing their dogs have given them is independence," Werntz continues. At any time of the day or night the dog is eager to guide his master or mistress unerringly. And with well-trained dogs at their sides, Seeing Eye graduates report that they are less dependent on others and are more positively accepted by the public than

they were before obtaining their dogs.

"Hundreds of our capable young graduates have attended colleges and universities in all parts of the nation, and their reactions are decidedly at odds with the counselor's opinion that the dog guide is a stigma, a sign of dependence."

MONITOR MINIATURES

Definite arrangements have been made for the Round Table on Library Service to the Blind to be held in San Francisco this summer, reports Mrs. Florence Grannis, chairman of the event. The June 26 meeting with Irving Stone as speaker will be held at the Hilton Hotel in the Continental Ballroom North. The meeting on June 27 will be held in the Colonial Room of the St. Francis Hotel.

* * *

Dr. J. Ray Shike, blind Lincoln, Nebraska osteopath, died March 27 just 12 days after retiring from his practice. Sightless from the age of seven, Dr. Shike during his long and varied career was a university graduate, newspaper publisher, politician, lecturer, and member and officer of several fraternal and professional organizations. He served on the Governor's Committee for the Handicapped and was past president of the Nebraska Association of Workers for the Blind. (From Lincoln, Nebraska newspapers.)

* * *

"Ambassadors for Christ" is the theme of the National Church Conference of the Blind scheduled for July 24-27 at the Andrews Hotel in Minneapolis. Rates for single rooms will be $5.50; doubles, $7.50; twins, $9.00; and three in one room, $10.50. Air conditioning is $1.00 extra.

* * *

Important business matters will highlight the annual convention of the Iowa Association of the Blind set for June 2-4 at the Iowa Braille and Sight Saving School in Vinton. Tickets for the banquet--scheduled for Saturday evening, June 3, at the Townhouse Motel in Cedar Rapids--are $3.50. Rates will be $2.25 a day, plus $2.00 dues. Reservation requests should be sent to Mrs. Mabel Winsor, I.B.S.S.S., Vinton, Iowa 52349.

* * *

Ham radio operators, hi-fi hobbyists, radio and TV repair technicians, electronics lab technicians, and students will be interested in the new Simpson 260 Multimeter, available for $80 from Science for the Blind, Haverford, Pa. 19041. The Simpson 260 enables a blind person to make accurate measurements in electrical and electronic circuits quickly and easily by connecting the meter, setting the switches, turning the pointer until a null in the audible tone is found, and then reading the braille scale.

* * *

Pursuant to Federation-supported legislation passed at the last Congressional session, the Library of Congress announces that the "talking books" it has supplied to blind readers for 34 years are now available to people with other physical handicaps--such as arthritis or paralysis--which prevent normal reading. To take advantage of this free service, disabled persons must file with the library a brief statement of their disability, certified by a competent authority.

* * *

In order to complete a collection of The Monitor and The Blind American, an appeal for print copies of The Blind American for June and July, 1961 has been issued by Mrs. Florence Grannis, Iowa Commission for the Blind librarian. Persons having these copies may send them to Mrs. Grannis at the Iowa Commission for the Blind, 4th and Keosauqua, Des Moines, Iowa 50309.

* * *

The Blind Merchants of New Jersey, a newly formed organization dedicated to improving financial and other benefits for blind vending stand operators, will elect permanent officers at their next meeting, set for May 21 at 2:00 p.m. at the New Jersey Foundation for the Blind headquarters, 46 Franklin Street, Newark. All blind vending stand operators in the state and other interested persons are cordially invited.

* * *

George Ryan writes from North Dakota that Clarence Pallach of West Fargo, a member of the Federated Blind of North Dakota Legislative Committee, was erroneously listed as Charles Pallach in the April Monitor story on North Dakota's passage of the White Cane Law.

* * *

West Virginia Senator Jennings Randolph's long-standing interest in the blind and his co-authorship of the Vending Stand Law have led Ways and Means for the Blind to name after the senator one of the literary awards it sponsors for residential schools for the blind. In a letter to Ways and Means President Hubert E. Smith, Senator Randolph responds: "Please know that I am deeply moved by the very thoughtful and kind offer to name the contest in the West Virginia School for the Deaf and Blind, 'The Jennings Randolph Literary Award.' My genuine commendation is extended to you and to the members of your organization for sponsoring such worthy projects. Certainly such efforts will contribute greatly to the development of the human potential of our blind citizens."

* * *

Plastic eyeglass frames bearing the partial labels "Elfa" and "Rocco" "Rodenstrode, made in W. Germany" have been recalled from distribution because they are highly flammable, the Food and Drug Administration said recently. Tests had shown that the frames, which were imported by Omega Instrument Company of New York and sold in the Virginia-North Carolina area by Hillbert Burdell Optical

Company of Norfolk, would burn at the rate of 1/2 inch a second. (The New York Times, March 16, 1967.)

* * *

Actress Audrey Hepburn, who plays a sightless wife in the forthcoming suspense film "Wait Until Dark," prepared for the role by attending schools for the blind in Europe and New York, learning to walk and cook blindfolded, and rehearsing with her eyes closed. (Los Angeles, California, Herald-Examiner, March 26, 1967.)

* * *

A hand-held light sensor has been specially designed for sightless science students by Dr. Thomas R. Carver, Princeton University physicist. The device transforms different light intensities--such as the light and dark areas of a room, a painting, a photograph, or a printed page--into distinctive sound frequencies. (The Record, New Jersey.)

* * *

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
IN BANK

BENNY MAX PARRISH Plaintiff and Appellant, v. THE CIVIL SERVICE COMMISSION OF THE COUNTY OF ALAMEDA, etc., et al., Defendants and Respondents.	)	S.F. 22429

In the present case an Alameda County social worker, discharged for "insubordination" for declining to participate in a mass morning raid upon the homes of the county's welfare recipients, seeks reinstatement with back pay on the ground that such participation would have involved him in multiple violations of rights secured by the federal and state Constitutions. He urges that his superiors could not properly direct him to participate in an illegal activity and that he could not, therefore, be dismissed for declining to follow such directions.

The county acknowledges that it has subsequently abandoned the method of mass morning raids to determine welfare eligibility and that such operations are now forbidden by the applicable state and federal regulations.[1] Since these regulations were not in force at the time of the plaintiff's dismissal, however, we must determine whether he could properly refuse to participate in the welfare raids on the ground that they infringed rights of constitutional dimension.

For the reasons set forth in this opinion we have decided that the county's failure to secure legally effective consent to search the homes of welfare recipients rendered the mass raids unconstitutional. We have determined further that, even if effective consent had been obtained, the county could not constitutionally condition the continued receipt of welfare benefits upon the giving of such consent. We have therefore held, for these two independently sufficient reasons, that the project in which the county directed the plaintiff to take part transgressed constitutional limitations. In light of plaintiff's knowledge as to the scope and methods of the projected operation, we have concluded that he possessed adequate grounds for declining to participate.

SEE DISSENTING OPINION

On November 21, 1962, the Board of Supervisors of Alameda County ordered the county welfare director to initiate a series of unannounced early-morning searches of the homes of the county's welfare recipients for the purpose of detecting the presence of "unauthorized males."[2] The searches were to be modeled on a Kern County project popularly known as "Operation Weekend."

Neither in planning nor in executing the searches did the county authorities attempt to secure appropriate search warrants. The social workers who conducted the searches were not required or permitted to restrict them to the homes of persons whom they had probable cause to arrest, or even to the homes of those welfare recipients whose eligibility they had any reason to doubt. Indeed, as will later appear, the majority of persons whose homes were searched were under no suspicion whatever and were in fact subjected to the raid for that very reason.

The Alameda County searches, popularly and reportorially dubbed "Operation Bedcheck," commenced on Sunday, January 13, 1963, at 6:30 a.m.[3] Although the county welfare department contained a 10-man fraud unit whose members ordinarily investigated all cases of suspected fraud, that unit could not adequately staff an operation of the sweep contemplated by the supervisors. Accordingly, despite the fact that the county's social workers did not ordinarily conduct fraud investigations, their services were necessary for this undertaking.

Since the social workers lacked experience with the techniques employed by the fraud investigators they received special instruction in the procedures to be followed. Their superiors instructed them to work in pairs with one member covering the back door of each dwelling while the recipient's own social worker presented himself at the front door and sought admittance. Once inside, he would proceed to the rear door and admit his companion. Together the two would conduct a thorough search of the entire dwelling, giving particular attention to beds, closets, bathrooms and other possible places of concealment.

Plaintiff was one of the social workers chosen to participate in the first wave of raids. Upon learning the nature of the proposed operation, he submitted a letter to his superior declaring that he could not participate because of his conviction that such searches were illegal. After plaintiff had explained his position to the division chief and the welfare director, he was discharged for insubordination.

"Insubordination can be rightfully predicated only upon a refusal to obey some order which a superior officer is entitled to give and entitled to have obeyed." (Garvin v. Chambers (1924) 195 Cal. 212, 224;

Sheehan v. Board of Police Commrs. (1925) 197 Cal. 70, 78; Forstner v. City and County of San Francisco (1966) 243 A.C.A. 787, 794.) Plaintiff contends that his superiors were not entitled to compel his participation in illegal searches and urges that such participation might have exposed him to severe penalties under federal law.[4]

Accordingly we must determine, as the central issue in the present case, the constitutionality of the searches contemplated and undertaken in the course of the operation. By their timing and scope those searches pose constitutional questions relating both to the Fourth Amendment's stricture against unreasonable searches and to the penumbral right of privacy and repose recently vindicated by the United States Supreme Court in Griswold v. Connecticut (1965) 381 U.S. 479.[5]

At the outset we must identify the standards which govern the constitutionality of such searches. Although misrepresentation of welfare eligibility constitutes a crime, by virtue both of special legislation directed to that evil (Welf. & Inst. Code, §§ 11265, 11482 [formerly §§ 1563, 1577]) and the general grand theft statutes (Pen. Code, §§ 484, 487; see People v. Bailey (1961) 55 Cal. 2d 514, 516-518; People v. Ryerson (1962) 199 Cal. App. 2d 646, 649-650), the county nevertheless contends that the searches undertaken in the course of the operation need not meet the standards ordinarily applied to searches for evidence of crime. It predicates this contention upon its claim that the searches were designed primarily to secure proof of welfare ineligibility so as to reduce the number of persons on welfare rather than to lay the basis for criminal prosecutions.[6]

In evaluating the county's contention our principal recourse must be to the decision of the United States Supreme Court in Frank v. Maryland (1959) 359 U.S. 360, wherein the court countenanced a distinction between searches directed to the procurement of evidence of crime and searches aimed toward the advancement of the general welfare by means other than criminal prosecutions.[7] In that case the court upheld a Baltimore ordinance requiring the occupant of any premises to admit a city health inspector whenever the latter "shall have cause to suspect that a nuisance exists...therein" and shall have "demand[ed] entry therein in the day time ... ." (359 U.S. at p. 361.) Examination of the Frank opinion discloses four separate and independently sufficient factors which render its holding inapplicable to the case before us.

First, the evidence sought by the health inspector in the Frank case would not itself have afforded a basis for criminal prosecution. The Baltimore ordinance did not penalize the mere maintenance of a nuisance; it authorized the imposition of sanctions only when the health

inspector had ascertained the existence of a nuisance and had issued an abatement order which the owner thereafter wilfully disobeyed.

Clearly mindful of this aspect of the Baltimore ordinance, the court repeatedly stressed the fact that discovery of a nuisance on the premises would not, without further culpable acts on Frank's part, have supported criminal prosecution. "The attempted inspection...," the court noted, "was merely to ascertain the existence of evils to be corrected upon due notification or, in default of such correction, to be made the basis of punishment." (359 U.S. at p. 362; see also p. 366.) In the present case, however, the evidence sought by the Alameda County authorities would have afforded a basis for prosecution without further action on their part or subsequent culpable conduct by the recipient.

Second, the Frank court drew a line between searches which advance the general welfare without recourse to criminal proceedings and "searches for evidence to be used in criminal prosecutions or for forfeitures." (Italics added.) (359 U.S. at p. 365.) Since the court thus declared that a search directed at securing evidence in aid of a forfeiture should be treated in the same manner as a search for evidence of crime, the Frank decision affords no support to the authorities of Alameda County who, by their own account, were seeking evidence of ineligibility for the express purpose of cancelling welfare benefits.

Third, the court emphasized the limited scope of the Baltimore ordinance in that it authorized searches only if the health commissioner had "cause to suspect that a nuisance exists." (See, e.g., 359 U.S. at p. 366.) In this connection, the court noted that the inspector who sought admittance to Frank's home had received reports of rats in the area and had conducted an external examination of the house which had revealed "that [it] was in an 'extreme state of decay,' and that in the rear of the house there was a pile later identified as 'rodent feces mixed with straw and trash and debris to approximately half a ton.' " (359 U.S. at p. 361.) Under these circumstances the court upheld the ordinance, observing that "[t]he power of inspection granted by the Baltimore City Code is strictly limited... . Valid grounds for suspicion of the existence of a nuisance must exist. Certainly the presence of a pile of filth in the backyard combined with the run-down condition of the house gave adequate grounds for such suspicion." (359 U.S. at p. 366.)

In the present case the county did not attempt to limit the searches to the homes of persons against whom the welfare authorities harbored any suspicion, reasonable or otherwise. On the contrary, a majority of the homes subjected to the raid were included solely because the authorities entertained no suspicion regarding their occupants.

Finally, the Frank court expressly limited its approval of administrative searches without warrants to those undertaken during daylight hours and without inconvenience to the occupants. Under the Baltimore City Code, the court stressed, "The inspection must be made in the day time. Here was no midnight knock on the door, but an orderly visit in the middle of the afternoon with no suggestion that the hour was inconvenient." (359 U.S. at p. 366; see also pp. 367-368.) The great gulf which separates an "orderly" afternoon visit from the searches conducted shortly after dawn in the present case would itself suffice to deprive defendant of any support from the Frank opinion.

On the basis of the foregoing analysis we conclude that the searches contemplated and undertaken in the course of the operation in the present case must be deemed unconstitutional unless the county can show compliance with the standards which govern searches for evidence of crime. The county concedes that it sought no warrants for these searches[8] and that it lacked probable cause to arrest any person in any of the homes searched, but contends that the searches took place pursuant to effective consent, freely and voluntarily given. (People v. McLean (1961) 56 Cal. 2d 660, 664; People v. Burke (1956) 47 Cal. 2d 45, 49.)

The alleged consent to search.

Our first task is to analyze the county's argument that the raids entailed no unlawful searches because the authorities instructed the searchers to refrain from forcing their way into any home. They were, instead, to report any refusal of entry to their superiors for such further action as might be deemed appropriate. The record indicates that, under the county's established practice, a reported refusal of entry could serve as a basis for terminating welfare benefits. The record also establishes that welfare recipients must depend to a remarkably high degree upon the continued favor of their social workers, who are vested with wide discretion to authorize or prohibit specific expenditures.[9] Accordingly, we must determine whether the threat of sanctions necessarily implicit in a request for entry under such circumstances vitiated the apparent consent which the searchers sought to secure from the occupants.

With increasing frequency the courts have denied the efficacy of any consent to a search obtained by covert threats of official sanction or by implied assertions of superior authority. The courts have been quick to note the disparity of position between a government agent and an ordinary citizen; they have taken cognizance of the threat of unspecified reprisals which inheres in the official request for admission. (See, e.g., Pekar v. United States (6th Cir. 1963) 315 F. 2d 319, 324-325; Canida v. United States (5th Cir. 1958) 250 F. 2d 822, 825,

and cases there cited.) As the court stated in Judd v. United States (D.C. Cir. 1951) 190 F. 2d 649, 651, "The Government must show a consent that is 'unequivocal and specific' [citation], 'freely and intelligently given.' [Citation.] Thus 'invitations' to enter one's house, extended to armed officers of the law who demand entrance, are usually to be considered as invitations secured by force. [Citation.] A like view has been taken where an officer displays his badge and declares that he has come to make a search [citation], even where the householder replies 'All Right.' [Citation.] Intimidation and duress are almost necessarily implicit in such situations; if the Government alleges their absence, it has the burden of convincing the court that they are in fact absent." (Accord, Channel v. United States (9th Cir. 1960) 285 F. 2d 217, 219-221.)

Thus in Johnson v. United States (1948) 333 U.S. 10, the United States Supreme Court voided a conviction based upon evidence secured after the defendant had admitted officers who told her that they wanted "to talk to [her] a little bit." (333 U.S. at p. 12.) The court concluded that "[e]ntry to defendant's living quarters...was demanded under color of office. It was granted in submission to authority rather than as an understanding and intentional waiver of a constitutional right." (333 U.S. at p. 13.) Similarly, in United States v. Slusser (S.D. Ohio 1921) 270 F. 818, 819, the court declared: "The search so permitted...after declaration by the prohibition officer, with a display of his badge, that they were there to search the premises, was not by such consent as will amount to a waiver of constitutional rights, but, on the contrary, is to be attributed to a peaceful submission to officers of the law." (See also Amos v. United States (1921) 275 U.S. 313, 317; People v. Henry, supra, 65 A.C. 896, 900; People v. Shelton (1964) 60 Cal. 2d 740, 745-746, and cases there cited.)

Our case proceeds far beyond a mere request for admission presented by authorities under color of office. Thus we need not determine here whether a request for entry, voiced by one in a position of authority under circumstances which suggest that some official reprisal might attend a refusal, is itself sufficient to vitiate an affirmative response by an individual who had not been apprised of his Fourth Amendment rights.[10] The persons subjected to the instant operation confronted far more than the amorphous threat of official displeasure which necessarily attends any such request. The request for entry by persons whom the beneficiaries knew to possess virtually unlimited power over their very livelihood posed a threat which was far more certain, immediate, and substantial.[11] These circumstances nullify the legal effectiveness of the apparent consent secured by the Alameda County searchers.[12] Both this court and the Supreme Court of the United States have recently

emphasized the heavy burden which the government bears when it seeks to rely upon a supposed waiver of constitutional rights.[13] The county has not sustained that burden here.

The consequences of failure to consent.

Even if we could conclude, however, that the consent secured by the Alameda County searchers constituted a knowing and fully voluntary waiver of Fourth Amendment rights, that conclusion would not establish the constitutionality of the operation involved in this case. That operation rested upon the assumption that a welfare agency may withhold aid from recipients who do not willingly submit to random, exploratory searches of their homes; from its inception, the operation contemplated the use of such searches to threaten the withdrawal of welfare benefits from anyone who insisted upon his rights of privacy and repose. In light of the resulting pressure upon welfare recipients to sacrifice constitutionally protected rights, the ultimate legality of the operation in which the plaintiff refused to participate must turn on whether the receipt of welfare benefits may be conditioned upon a waiver of rights embodied in the Fourth Amendment.

In Bagley v. Washington Township Hospital Dist. (1966) 65 A.C. 540, and Rosenfield v. Malcolm (1967) 65 A.C. 601, this court recently reviewed the so-called "doctrine of unconstitutional conditions,"[14] concluding that the power of government to decline to extend to its citizens the enjoyment of a particular set of benefits does not embrace the supposedly "lesser" power to condition the receipt of those benefits upon any and all terms.

When, in the present case, the conditions annexed to the enjoyment of a publicly-conferred benefit require a waiver of rights secured by the Constitution, however well-informed and voluntary that waiver, the governmental entity seeking to impose those conditions must establish: (1) that the conditions reasonably relate to the purposes sought by the legislation which confers the benefit; (2) that the value accruing to the public from imposition of those conditions manifestly outweighs any resulting impairment of constitutional rights; and (3) that there are available no alternative means less subversive of constitutional right, narrowly drawn so as to correlate more closely with the purposes contemplated by conferring the benefit. (Bagley v. Washington Township Hospital Dist., supra, 65 A.C. 540, 542, 546-548; Rosenfield v. Malcolm, supra, 65 A.C. 601, 604; see Note, op. cit. supra, 67 Colum. L. Rev. 84, 101 & fn. 104; cf. Symposium on the Griswold Case and the Right of Privacy, op. cit. supra, 64 Mich. L. Rev. 197, 251.)

Although we can conceive of unusual situations in which the government might properly predicate continued welfare eligibility upon consent to unannounced early-morning searches, the record fails to develop any justification for such a condition here. Under some circumstances the county might be able to establish that a requirement of consent to such searches would facilitate the detection of frauds which deplete the welfare fund. As noted above, we would then be called upon to decide whether the benefits derived from the imposition of such a condition outweighed the corresponding impairment of constitutional rights. We could not resolve this issue upon the record now before us, because the evidence adduced in the present case fails to establish the incidence of welfare fraud or the efficacy of mass morning raids in reducing such fraud.[15]

In any event the instant operation does not meet the last of the three requirements which it must satisfy: so striking is the disparity between the operation's declared purpose and the means employed, so broad its gratuitous reach, and so convincing the evidence that improper considerations dictated its ultimate scope, that no valid link remains between that operation and its proferred justification.

We recall the crucial fact that the county authorities deliberately declined to restrict their searches to the houses of those recipients as to whom they entertained some reason, however remote, to suspect fraud. The standing orders of the Alameda County social workers required them to report all cases of suspected ineligibility to the fraud unit for further inquiry. The record establishes that the social workers consistently followed these orders, referring for investigation all cases which they had any reason to doubt, even when their suspicion rested on no more than an anonymous phone call or letter; in compiling the list of homes to be raided in the course of the operation the county authorities excluded all cases which had been referred to the fraud unit.

Moreover, the workers designated to participate in the operation were told that at least half of the homes to be searched should be chosen at random from their non-suspect cases. The remaining homes would of course be those which, despite the social workers' doubts, had not been deemed sufficiently suspect to warrant referral to the fraud unit.[16] Any welfare worker who had referred all of his doubtful cases to the fraud unit was instructed to make all of his selections at random.

In his initial testimony before the civil service commission, the county welfare director stated that he included non-suspect cases in his instructions because he had been ordered to imitate the Kern County operation and had been advised by the Kern County director

that non-suspect cases were included there. Later, however, after plaintiff's counsel had indicated that he would introduce evidence that the Kern County searches had been confined to suspect homes, county counsel agreed to stipulate that "at the time that Mr. Kehoe [the Alameda County director] discussed the matter of the early morning visitations with Mr. Bell of the Social Welfare Department of Kern County...Mr. Bell told him that of the cases that were picked in Kern County, they had a random sampling and that there was no differentiation between the suspect cases and the non-suspect cases, but that after the early morning visitations were concluded in Alameda County...Mr. Kehoe had another discussion with Mr. Bell of Kern County, and at that time Mr. Bell informed him that all of the cases in Kern County were suspect."

The record clearly shows that the Alameda County director was anxious to include non-suspect homes in order to provide a dramatic public demonstration of the efficiency of the Alameda County welfare program and the low incidence of fraud. In the interview which he conducted with plaintiff prior to discharging him, he stated: "As you well know, the ANC Program is under public fire. Something needs to be done in a dramatic way to prove the point...that the vast majority of these people are legitimately on the program." Similarly, in his testimony before the civil service commission the director declared: "[A]s long as a non-suspect group were to be included...we should try to include these in a fashion which would bring to our attention, as well as the public attention, our belief that an across-the-board look at the case load would confirm our opinion that...the case load by and large...would not show up in a bad light on a true random sample approach... ."[17]

However laudable the goal of the Alameda County authorities to persuade the public that the incidence of welfare fraud falls below popular estimates, we cannot accept the view that they were free to advance that objective by indiscriminate raids upon the homes of persons selected solely because their honesty could be exploited to dramatize the point which the authorities wishes to make.[18] Even if we were to assume that a public demonstration of the contemplated type might tend to further the purposes of the welfare program, any such speculative benefit must yield before the far more immediate and substantial right of innocent persons to be secure in their homes.

In Bielicki v. Superior Court (1962) 57 Cal. 2d 602, 609, we condemned a "general exploratory search" of public restrooms, noting that the "[a]uthority of police officers to spy on occupants of toilet booths...will not be sustained on the theory that if they watch enough people long enough some malum prohibitum acts will eventually be discovered." Yet such general exploratory searches pale beside a raid

expressly directed into the homes of persons known to be under no suspicion.

Not only has the county failed to demonstrate that the scope of the raids was closely correlated to the achievement of some legitimate end, but alternate means for the detection of fraud less subversive of constitutional rights were available to the county. For example, the welfare director testified that in investigating suspect cases his workers would maintain an external watch "[u]ntil such time as there [was] sufficient indication to warrant the request to enter the home and look through it." No one has explained why such safeguards, accorded in suspect cases, were denied the non-suspect persons subjected to the operation. The foregoing factors indicate so marked a lack of congruence between the scope of the operation and the legitimate goal of reducing welfare fraud as to deprive that procedure of any constitutional justification.

In seeking to defend the conduct of its officers, the county places great stress upon the fact that while examining the 422 homes subjected to the operation, the searchers also made inquiries into such routine matters as the amount of food in each home. Obviously, the accomplishment of these functions did not necessitate an operation of the type which the county here undertook.

The grounds for plaintiff's refusal to participate in the search.

At oral argument before this court, county counsel did not seek to establish the constitutionality of the searches but urged that, whatever the legal status of the operation, the county could still discharge plaintiff because, at the time he refused to participate in it, he had not yet learned of the unconstitutional nature of the contemplated searches.

The record supports no such claim. On the contrary, the uncontradicted evidence establishes that prior to plaintiff's refusal to participate, he had been advised of the purpose, timing, and scope of the searches, and of the fact that at least one-half of the homes to be searched would be chosen at random from non-suspect cases. Moreover, in explaining to his superiors the reasons for his unwillingness to participate, plaintiff repeatedly stated that he believed the county could not legally search the homes of those known to be under no suspicion.

The board of supervisors issued its directive concerning the initiation of the operation on November 21, 1962. Thereafter, on January 3, 1963, the plaintiff attended a briefing at which he and the

other social workers were told about the objectives of the operation, its timing and scope, and the strategy of operating in pairs. At this meeting the social workers were also instructed to prepare their lists of homes for the proposed search and to choose at least one-half of the cases from among persons whom they did not suspect.[19]

After attending this briefing, plaintiff discussed his doubts with his immediate superior. The superior, appearing on behalf of the county, gave the following account of the ensuing conversations: "We discussed the whole issue in great detail for at least a week... . His final reply, after a week's preliminary discussion [was], 'This I cannot do.'...He felt that he did not wish to go on these so-called random visits, as this would appear that his clients would be guilty of something that we have no proof of... . He did not object to suspect cases, however, his objection was lying in the realm of the random cases as he felt this assumed a guilt on the part of the recipient that had not been proven... . I asked him whether he felt that his handicap would interfere with his making these calls [plaintiff is only partially sighted] or whether it was possibly one of transportation due to the hour involved; however, he felt that this was a matter of principle with him and stated, 'This, I cannot do.'... We discussed it a whole week trying to come up with some answer...to evaluate all aspects and we were unable to come to an agreement, and [hence] the subsequent outright refusal."

After these conversations proved futile, plaintiff submitted to the division chief a memorandum citing his reasons for declining to participate in the searches. Foremost among the reasons listed was plaintiff's conviction that the searches indicated "the presumptive guilt of all recipients" and constituted "an invasion of the privacy of recipients."

Since the record establishes that the information known to plaintiff at the time he made his decision gave him reasonable grounds to believe that the operation would be unconstitutional, that he did so believe, and that the operation, as ultimately conducted, was in fact unconstitutional, we need not consider how we would decide this case had any one of these elements been missing.

We fully recognize the importance of ferreting out fraud in the inexcusable garnering of welfare benefits not truly deserved. Such efforts, however, must be, and clearly can be, conducted with due regard for the constitutional rights of welfare recipients. The county welfare department itself has now abandoned the technique of investigation which it pursued here; we may thus rest assured that it will develop other more carefully conceived procedures. It is surely not beyond the competence of the department to conduct appropriate investigations

without violence to human dignity and within the confines of the Constitution.

The judgment is reversed and the cause is remanded to the trial court with directions to enter judgment in accordance with this opinion.

TOBRINER, J.

WE CONCUR:

TRAYNOR, C. J.
PETERS, J.
MOSK, J.
BURKE, J.
*PEEK, J.

*Retired Associate Justice of the Supreme Court sitting under assignment by the Chairman of the Judicial Council.

DISSENTING OPINION

I dissent. I would affirm the judgment for the reasons expressed by Mr. Justice Taylor in the opinion prepared by him for the Court of Appeal in Parrish v. Civil Service Commission (Cal. App.) 51 Cal. Rptr. 589.

McCOMB, J.

FOOTNOTES

1. The state and federal regulations which bar such searches are, respectively, section V(B) of "Special Methods of Investigation," Department of Social Welfare Bulletin No. 624 (revised), effective September 1, 1963, and section 2220, item 1, and section 2230, item 1, of the United States Department of Health, Education and Welfare, Handbook of Public Assistance Administration, issued March 18, 1966, requiring state conformance therewith by July 1, 1967.

2. Welfare and Institutions Code section 11351 (formerly § 1508) provides that the amount of a grant on behalf of a needy child is to be computed after considering the income of any adult male "assuming the role of spouse" to the child's mother, whether married to her or not.

3. At the civil service commission proceeding the welfare department's division chief testified: "We indicated that the operation should start at 6:30 A.M. [I]f they were using County automobiles... they should leave the County lot at 6:30 A.M. If they were leaving directly from their home...the call should start at approximately 6:30 as the first call."

4. One who, clothed with the authority of a state agency, invades and searches a home without a warrant and without probable cause to effect an arrest upon the premises may incur civil liability to the occupant under section 1983 of title 42 of the United States Code. (See Monroe v. Pape (1961) 365 U.S. 167; Cohen v. Norris (9th Cir. 1962) 300 F. 2d 24, 31-32; Beauregard v. Wingard (S.D. Cal. 1964) 230 F. Supp. 167, 173-177.) Moreover, under section 242 of title 18 of the United States Code, wilful participation in a state-directed activity which infringes any right secured by the federal Constitution is a misdemeanor, punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both. (See United States v. Price (1966) 383 U.S. 787; Screws v. United States (1945) 325 U.S. 91; People v. Cahan (1955) 44 Cal. 2d 434, 436.) (But see Note, Federal Judicial Review of State Welfare Practices (1967) 67 Colum. L. Rev. 84, 96 fn. 76.)

5. See, generally, Symposium on the Griswold Case and the Right of Privacy (1965) 64 Mich. L. Rev. 197.

6. The county cannot now effectively preclude the possibility that, in an appropriate case, it would have undertaken criminal proceedings on the basis of evidence secured in the operation. That possibility suggests the danger that "the administrative officer who invades the privacy of the home may be only a front for the police who are thus saved the nuisance of getting a warrant." (Abel v. United States (1960) 362 U.S. 217, 242 [Douglas, J., dissenting].)

7. If the Frank distinction between criminal and non-criminal searches should fall, the county's contention would of course collapse. Although two cases now pending before the United States Supreme Court (Camara v. Municipal Ct. of San Francisco, No. 92; See v. City of Seattle, No. 180 [prob. juris. noted (1966) 385 U.S. 808]) raise the question of whether the Frank doctrine should be overruled, we may assume for present purposes that the court will adhere to its holding in Frank since, as we explain below, we do not find that holding controlling under the circumstances here before us.

8. Since the searches were made without warrants, the county of course bears the burden of justifying them. (See People v. Henry (1967) 65 A.C. 896, 898, and cases there cited.)

9. This discretion, limited by no standard and subject to no appeal, heightens the peril faced by any recipient bold enough to deny entry. Not surprisingly, none of the recipients were so daring here. (See Respondent's Reply Brief, p. 10.) In Shelton v. Tucker (1960) 364 U.S. 479, the court struck down a statute requiring teachers to report their membership in any organization, noting that "[s]uch interference with personal freedom is conspicuously accented when the teacher serves at the absolute will of those to whom the disclosure must be made--those who any year can terminate the teacher's employment without bringing charges, without notice, without a hearing, without affording an opportunity to explain." (364 U.S. at p. 486.) (Cf. Note, op. cit. supra, 67 Colum. L. Rev. 84, 93.)

10. See United States v. Nikrasch (7th Cir. 1966) 367 F. 2d 740, 744; United States v. Blalock (E.D. Pa. 1966) 255 F. Supp. 268; People v. Henry, supra, 65 A.C. 896, 900; Note, Consent Searches: A Reappraisal After Miranda v. Arizona (1967) 67 Colum. L. Rev. 130.

11. In Lynumn v. Illinois (1963) 372 U.S. 528, 534, the United States Supreme Court regarded a threat that "state financial aid for [the defendant's] children would be cut off" as an important element of coercion in determining the voluntariness of defendant's confession.

12. In a recent article devoted entirely to the problem of nighttime welfare searches, Professor Charles Reich canvasses the available authorities and concludes that "there is no theory under which it can be said that public assistance recipients consent, expressly or impliedly, to searches of their homes. The official demand for entrance is sufficient to render any apparent consent involuntary and the threat of loss of public assistance underscores the coercive nature of the demand for entry." (Reich, Midnight Welfare Searches and the Social Security Act (1963) 72 Yale L. J. 1347, 1350.) (See also tenBroek, California's Dual System of Family Law: Its Origin, Development and Present Status (1965) 17 Stan. L. Rev. 614, 670.)

13. See, e.g., Miranda v. Arizona (1966) 384 U.S. 436, 475-476; Brookhart v. Janis (1966) 384 U.S. 1, 4, 7; People v. Stewart (1965) 62 Cal. 2d 571, 581, affd. sub nom. Miranda v. Arizona, supra, 384 U.S. 436, 497-499.

14. A sampling of the more informative decisions and articles on this subject would include: Sherbert v. Verner (1963) 374 U.S. 398; Speiser v. Randall (1958) 357 U.S. 513; Hannegan v. Esquire, Inc. (1946) 327 U.S. 146; Fort v. Civil Service Commission (1964) 61 Cal. 2d 331; Danskin v. San Diego Unified Sch. Dist. (1946) 28 Cal. 2d 536; O'Neil, Unconstitutional Conditions: Welfare Benefits with Strings Attached (1966) 54 Cal. L. Rev. 443; Comment, Unconstitutional Conditions: An Analysis (1961) 50 Geo. L. J. 234; Note, Unconstitutional Conditions (1960) 73 Harv. L. Rev. 1595.

15. By a series of doubtful rulings, plaintiff was prevented from introducing evidence which he claimed would demonstrate that such searches were neither necessary nor effective.

16. The testimony shows that during the pendency of the operation the standard for referrals to the fraud unit was reduced, thus further curtailing the number of suspect cases which were subject to the searches.

17. The chief of plaintiff's division also testified that non-suspect cases were included to "give an indication or a true picture of actually what was existing in the total caseloads rather than just exactly the suspicious cases." To like effect was the testimony of the assistant welfare director, who agreed with the statement of plaintiff's counsel that "the purpose for including the non-suspect cases within the operation...was to demonstrate that there was no reason for fear that...there was undetected fraud existing among those cases... ."

18. "Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficient." (Olmstead v. United States (1928) 277 U.S. 438, 479 [Brandeis, J., dissenting].)

19. After plaintiff's dismissal the social workers attended a second meeting at which they received further briefing. The only additional information given to them at the second meeting which might have affected the constitutionality of the searches was the greater stress then laid upon the need to secure the consent of the recipients before entering their homes.